

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, ) Docket No. 3:06-CR-719  
Plaintiffs, ) Toledo, Ohio  
v. ) April 11, 2008  
MOHAMMED AMAWI, ET AL., )  
Defendants. )

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TRANSCRIPT OF JURY TRIAL, VOLUME 27  
BEFORE THE HONORABLE JAMES G. CARR  
UNITED STATES DISTRICT JUDGE

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1 THE COURT: The juror who -- the juror with whom  
2 we started yesterday --

3 Amy, why don't you come on over?

4 -- I think she probably should be excused.

5 COURTROOM DEPUTY: Juror -- I'm going to have to  
6 look -- is it 254? 154.

7 MR. HARTMAN: Not curly, the straight hair.

8 COURTROOM DEPUTY: She approached me this  
9 morning. She talked with her husband, explained to him --  
10 he's very upset, she's upset. Her husband starts a new job  
11 on Monday, has to be to work at 5:00 a.m., she could go  
12 home and get the boys on the bus, and then would have to  
13 start later, but she doesn't think he's going to be able to  
14 handle it.

15 THE COURT: I think we should excuse her.

16 MR. SOFER: Can we just talk about this for a few  
17 moments?

18 THE COURT: Yeah. The thing is, she clearly has  
19 got problems on the home front, and they're not going to be  
20 moderated by --

21 She very much wants to serve, right, Amy?

22 It's not her desire -- she's going to be very  
23 upset either way. If she lived a lot closer, I'd say,  
24 look, we can do a little bit of adjustment, even then  
25 she's -- the impression I get from Amy, candidly, I assume

1 not --

2 Sit down, sit down.

3 -- in the end with her because it's just going to  
4 make it a lot more difficult. I realize the -- the ice is  
5 getting kind of thin, but I think the rest of the crowd is  
6 committed -- like Grant before Petersburg -- fight on this  
7 line all summer long.

8 MR. HARTMAN: Can defense counsel --

9 THE COURT: Yes, of course. Talk to yourselves,  
10 then talk to your clients.

11 Okay. With regard to my suggestion, just  
12 indicate whether you concur or not on behalf of the  
13 government.

14 MR. SOFER: Your Honor, we've --

15 THE COURT: Without going into details please.

16 MR. SOFER: We -- the government opposes excusing  
17 this juror this early in the case. We have concerns --

18 THE COURT: Why don't we come up to sidebar.

19 (A sidebar conference was had on the  
20 record.)

21 MR. SOFER: While we're sympathetic to this  
22 juror's position and understand that her husband is upset  
23 and she's upset, it seems to us that she's known about the  
24 length of this trial, the kind of trial it was for a long  
25 time. Your Honor's been very good about letting these

1 jurors know what kind of commitment they're going to make.

2 And our main concern, Judge, is simply, we're two  
3 weeks in. We really haven't -- even with two weeks into  
4 the trial, we've only scratched the surface of about a  
5 third of way through the government's case, just on the  
6 first witness, that is. And we're frightened, frankly,  
7 that, as you say, the ice is thin, and we have months to  
8 go.

9 And also, I think it potentially sets the bar in  
10 the wrong place, in our position -- in our position,  
11 potentially sits the bar in the wrong place that other  
12 jurors may develop similar type of hardships.

13 And again, I use that word not in a legal sense  
14 during the course of the trial, and if -- and should this  
15 become a cascading problem, we obviously want to finish the  
16 case, not have a mistrial because we've lost -- again,  
17 we're not even two weeks into the case, we've already  
18 dipped a third into the --

19 THE COURT: Let me hear Mr. --

20 MR. HELMICK: On behalf of Mr. Masloun, our  
21 position is we have no objection to The Court excusing her  
22 if The Court feels that's appropriate.

23 MR. HARTMAN: The same on behalf of El-Hindi.

24 MR. SIEVE: Same here.

25 THE COURT: I am going to excuse her because I do

1 think that the -- and I appreciate it, trust me, I think I  
2 do this with any sense of -- no big deal, far from it, but  
3 seeing her yesterday and, you know, talking to her, and  
4 then I thought things were being put to rest, but she  
5 clearly has some severe and, I think, highly unusual  
6 tensions. I think she clearly understood -- understands  
7 that there's no reason for concern. I don't think she felt  
8 any herself even before we talked to her about it.

9           Nonetheless, a combination of a husband who  
10 obviously doesn't want her to serve. She's away from home  
11 all week now. Now she's going to have to start getting  
12 everything done, kids on the bus, leave 7:00, 7:15.  
13 Doesn't matter to me if we start at 9:30, even if it means  
14 losing an hour a day, that's not the issue. The issue is  
15 having the juror with those kinds of circumstances  
16 developing with those kind of pressures, the impact  
17 emotionally and the distraction it's going to cause add on  
18 to her ability to simply focus and concentrate on this  
19 case, I think, are not going to be manageable.

20           And now the question is, what, if anything, do we  
21 say to the other jurors? I would like to say to them,  
22 ladies and gentlemen, this is why this juror's been  
23 excused, that understand this is a drastic and severe  
24 situation because of her home circumstances that I conclude  
25 simply was not manageable with her obligations as a juror.

1           We are getting a little thin in back-up jurors.  
2       So please understand I've done this because it's a highly  
3       unusual circumstance, unexpected. The further we get into  
4       the case, the less inclined I am going to be to find no  
5       matter what the hardship. It would have to be something --  
6       even if it means postponing the trial somewhat or whatever,  
7       I'm going to handle it that way, I expect, rather than  
8       excusing jurors.

9           MR. HARTMAN: Are you going to tell them what the  
10       situation is or just say it's something?

11          THE COURT: No. I'm just going to say that a  
12       very severe situation at home. She may or may not have  
13       discussed it with you, but it would be, in my mind, a clear  
14       and constant distraction and difficulty, and she wants to  
15       serve, doesn't -- but this is a judgment.

16          MR. HARTMAN: Maybe it would make it best if you  
17       told them the reason you're making the judgment, is because  
18       of -- it would make it too hard for her to focus on the  
19       case.

20          THE COURT: Exactly. So same --

21          MR. SOFER: I just -- I, frankly, think less is  
22       more here, Judge, only because, again --

23          THE COURT: That's fine.

24          MR. SOFER: -- our concern is when a juror --

25          THE COURT: That's fine. I'll handle it that



1 way. If you'll have her come down and -- just have her  
2 come down.

3 Counsel, counsel, what I'd like to do is have her  
4 come down, and on the record, again, with the same cadre  
5 for just in chambers, excuse her, have the rest of the  
6 jurors brought down, and go from there.

7 Have you talked to your clients?

8 MR. HELMICK: Yes.

9 MR. HARTMAN: Yes, he's fine.

10 MR. BOSS: Yes.

11 THE COURT: I'll just do it briefly on the  
12 record.

13 MR. SOFER: If we're going to bring her down,  
14 Judge, would you object to a little bit of questioning  
15 about her situation?

16 THE COURT: I'm going to.

17 MR. SOFER: Okay.

18 (In chambers with counsel only.)

19 THE COURT: I understand you still have problems  
20 at home?

21 JUROR: Yes, I went home last night and it just  
22 did not go well. He's a mason and he's starting a job next  
23 week that he has to leave the house at 5:00, and our kids  
24 don't get on the bus until 7:15, and I would have to leave  
25 at 5:30. There's some issues with one of our children and

1 their homework and having problems, which I didn't find out  
2 until right after I found out I was selected from this, but  
3 he just -- my husband is not dealing with this well at all.

4 THE COURT: And I gather that it would and it is  
5 creating and it would create a pretty substantial,  
6 continuing, and aggravating --

7 JUROR: Oh, yes.

8 THE COURT: -- within the family?

9 JUROR: Very stressful.

10 THE COURT: And would it affect your ability to  
11 kind of focus and concentrate on trial and would there  
12 be -- would the home situation kind of intrude upon your --  
13 would you be thinking about it while you're up here?

14 JUROR: Yes, I would.

15 THE COURT: Okay. Okay.

16 Counsel, any questions at all?

17 MR. HARTMAN: No.

18 MR. HERDMAN: Do you still want to continue  
19 serving as a juror?

20 JUROR: I would like to, but with all the issues  
21 at home, I don't feel like I can.

22 THE COURT: Okay. Okay. Well, we'll excuse you.  
23 I'm going to have you wait here, we'll bring the other  
24 jurors down. Have you talked to them about this at all?

25 JUROR: Just to the one, Tammy. Her and I kind

1 of talk a little bit, just that, you know, I'm having  
2 troubles at home.

3 THE COURT: Do you have any sense that there are  
4 other jurors who are having the same kinds of problems with  
5 participating in trial and so forth?

6 JUROR: No.

7 THE COURT: Okay. Nobody's mentioned to you,  
8 gee --

9 JUROR: No. And my issue is it's a two-hour  
10 drive.

11 THE COURT: I understand. Oh, I know. And also,  
12 I assume that your husband, no matter what you may have  
13 told him about what I tried to communicate -- and I really  
14 mean that -- he may not be totally persuaded about that,  
15 but also you have all these other problems, okay?

16 Well, we hate to see you go, not only because I  
17 think clearly you're dedicated, you took this job on  
18 knowing it wouldn't be easy, and but I will excuse you and  
19 thank you for your service. And maybe sometime we'll get a  
20 shorter, easier case to deal with, okay?

21 JUROR: Okay.

22 THE COURT: So thank you.

23 MR. HARTMAN: We'll get you a nice bank fraud or  
24 something.

25 THE COURT: No. They tend to go on for a while,

1 bank robbery, okay.

2 MR. HARTMAN: Yeah, that's true.

3 THE COURT: Well, thank you very much, and -- and  
4 do go, not only with our sincere gratitude for your candor  
5 and your openness and your honesty and your dedication and  
6 your understanding, that which I'm sure you have, that this  
7 really is an important civic duty, and you'll get a chance  
8 to do it again sometime under less demanding and stressful  
9 circumstances, those that I trust won't be disruptive, but  
10 certainly not as disruptive to your tranquility at home,  
11 and we don't want that. Thank you very much.

12 MR. HARTMAN: I don't think it's going to be a  
13 problem. We should probably instruct on talking about the  
14 case until it's over.

15 THE COURT: Yeah, don't talk about the case.  
16 Those who know that you were serving in this case may well  
17 ask you why are you no longer serving, and I think I would  
18 ask you only to say --

19 JUROR: Family issues, can I just say there  
20 was --

21 THE COURT: Just say family issues and that's  
22 fine. And just say, I really can't talk about anything to  
23 do with the case until it's all over. And you, no doubt,  
24 will have people ask you what -- what's the case all about,  
25 is it really all that we see on the news? And of course,

1 the answer is no, it's not. But that's neither here nor  
2 there, but you'll say I really can't talk about the case  
3 until it's all over.

4 It is inconceivable to me that you would have any  
5 contact from the media because of all the reasons I have  
6 said. The only way that that might happen is if somebody  
7 who knows that you're on the case happens somehow to say  
8 something to something and say something to somebody else  
9 and winds up -- and in that case, I would ask you to do two  
10 things: One is to say, well, how did you get my name?

11 JUROR: Okay.

12 THE COURT: And say -- I'm trying to develop a  
13 little formula. How did you get my name and then say, what  
14 makes you think that? Okay?

15 And if it's something that's -- that would  
16 indicate to you that things aren't quite as watertight as  
17 I've suggested in that regard, I'd appreciate a phone call  
18 to my office, if you'd be willing to do so.

19 JUROR: Yes.

20 THE COURT: In protecting your own privacy and  
21 that of the jurors, say, how did you get my name and what  
22 makes you think that? And then say, you know, I don't want  
23 to talk to you.

24 So I'm just suggesting anything you can do and  
25 I'm trying to think of a formula that would make people

1 think, well, gee, it's, you know, it's a mistake. Okay?

2 JUROR: Okay.

3 THE COURT: Without confirming one way or the  
4 other and just say I don't want to talk to you. Okay?

5 JUROR: Okay.

6 THE COURT: Good. I can't imagine that you're  
7 going to get that kind of call, especially because you live  
8 outside, really, Toledo coverage. It's not as though you  
9 live in the Old West End or whatever. Even then, the  
10 reporter did come up was waiting for me at the close of  
11 business yesterday and said, Can you talk to me? She said  
12 I've got an hour and a half of blank page. I said, well,  
13 put the hour and a half of blank page in the paper, but I  
14 can't talk to you.

15 MR. HERDMAN: Your Honor, this might be a good  
16 time to remind the juror about the names of other jurors,  
17 that they remain protected.

18 THE COURT: Yeah, you won't -- you won't disclose  
19 the names or any of the other jurors obviously?

20 JUROR: And quite frankly, I only know them by  
21 first names.

22 THE COURT: Okay. Well, thank you. With deep  
23 regret, we'll send you off, but on the other hand, but with  
24 complete understanding.

25 JUROR: I appreciate the understanding. I'm

1 disappointed in this.

2 MR. HARTMAN: It happens, really, I mean, --

3 THE COURT: Okey dokey. If you can just wait a  
4 few minutes, we'll have your now former colleagues down,  
5 and we'll send you on your way.

6 MR. DOUGHTEN: When people ask you about the  
7 lawyers, they were all great.

8 THE COURT: And the judge.

9 (Back in open court with counsel.)

10 THE COURT: You may be seated. Let me just say,  
11 Mr. Masloun, have your attorneys talked to you about what  
12 we've been doing the last few minutes?

13 THE DEFENDANT: Yes.

14 THE COURT: And do you concur in the way it was  
15 handled and the result?

16 THE DEFENDANT: Yes.

17 THE COURT: Mr. El-Hindi, same question?

18 THE DEFENDANT: Yes.

19 THE COURT: Have your lawyers filled you in on  
20 what we've been doing and do you concur in how I handled it  
21 and the result?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Mr. Amawi, same --

24 THE DEFENDANT: Yes, Judge.

25 THE COURT: You've been filled in by the lawyers,

1 what we've been up to, and you agree with the way it was  
2 handled and resolved?

3 THE DEFENDANT: Yes, Judge.

4 THE COURT: Okay.

5 Okay. Why don't you bring Mr. Griffin back up  
6 and we'll be on our way.

7 MR. SOFER: We're doing it right now, Judge.

8 (Jury brought in.)

9 THE COURT: Good morning, ladies and gentlemen.  
10 You may be seated. Regrettably and for reasons that I ask  
11 you not to speculate about, we had to excuse one of your  
12 fellow jurors this morning. And it was most unfortunate,  
13 if for no other reason, as I'm sure you came to know that  
14 juror. She was -- would have made an excellent juror, and  
15 for reasons that, as I say, don't speculate about, and  
16 we'll get back under way.

17 Go ahead, Mr. Sofer.

18 Mr. Griffin, you remain under oath.

19 THE WITNESS: Yes, sir.

20 DIRECT EXAMINATION

21 MR. SOFER: Thank you, Judge.

22 BY MR. SOFER:

23 Q. Good morning, Mr. Griffin.

24 A. Good morning.

25 Q. We left off yesterday, you had described



1 partially the events that took place on February 16th,  
2 2005. I think we got up to the part where you testified  
3 that Wassim Masloun, Mohammed Amawi, and Marwan El-Hindi  
4 were in the front part of Mohammed -- I'm sorry, Marwan  
5 El-Hindi's home; is that correct?

6 A. Yes.

7 MR. SOFER: And if we could just replay the very  
8 short clip, which is 5-A, that we ended off yesterday at.  
9 It was 5A.

10 Again, Judge, it was Exhibit 4-23, 1D28.

11 (Audio playing.)

12 BY MR. SOFER:

13 Q. Okay. Mr. Griffin --

14 THE COURT: If I can interrupt. Excuse me,  
15 ladies and gentlemen, as has happened a couple times  
16 before, the reason that that was replayed was not for  
17 emphasis, not because it was highlighted in any way, but  
18 simply to put what's coming next into context.

19 MR. SOFER: Thank you, Judge.

20 THE COURT: Sometimes, if you listen to a book on  
21 tape, you'll replay the last sentence or paragraph on the  
22 next side to bring you to mind where we were.

23 Go ahead.

24 MR. SOFER: If we could play 6A.

25 (Audio playing.)

1 BY MR. SOFER:

2 Q. When you said these words, Mr. Griffin, can you  
3 tell the members of the jury who was present?

4 A. Marwan El-Hindi, Mohammed Amawi, and Wassim  
5 Masloun.

6 (Audio playing.)

7 BY MR. SOFER:

8 Q. Do you recall what was happening there in this  
9 part where the child came in and then you thanked somebody?

10 A. The child had brought either tea or coffee in,  
11 and I was thanking, I believe, either her or Marwan  
12 El-Hindi.

13 Q. When you say "her," who are you referring to?

14 A. One of Mr. El-Hindi's children.

15 (Audio playing.)

16 BY MR. SOFER:

17 Q. Mr. Griffin, did you give out cards that day?

18 A. Yes, I did.

19 Q. Was that part of the discussion about using your  
20 company as a cloak?

21 A. Yes, it was.

22 MR. BOSS: Your Honor, could we have  
23 clarification on that, all the defendants were given cards?

24 BY MR. SOFER:

25 Q. Do you know if all the defendants were given

1 cards?

2 A. Yes.

3 MR. SOFER: And let's pull up 132E, please.

4 BY MR. SOFER:

5 Q. Is that one of your cards?

6 A. Yes, it is.

7 Q. And those are the cards that you gave out on  
8 February 16th of 2005?

9 A. Yes.

10 MR. SOFER: And can you play --

11 (Audio playing.)

12 BY MR. SOFER:

13 Q. Who are you referring to with "Brother Atta"?

14 A. One of the hijackers on 9-11.

15 (Audio playing.)

16 BY MR. SOFER:

17 Q. Now, Mr. Griffin, during the course of this  
18 conversation, who was present?

19 A. Marwan El-Hindi, Wassim Masloun, and Mohammed  
20 Amawi.

21 Q. And approximately, where in the home did this  
22 conversation take place?

23 A. In the front room, living-room area.

24 Q. Were you able to tell where the three defendants  
25 were focusing their attention?

1 A. On me.

2 MR. SOFER: Let's continue with clip 7A.

3 (Audio playing.)

4 BY MR. SOFER:

5 Q. Do you recall, Mr. Griffin, what was happening at  
6 this point?

7 A. The children were preparing to bring out food.

8 (Audio playing.)

9 BY MR. SOFER:

10 Q. Okay. Again, did the conversation on  
11 February 16th, 2005 continue?

12 A. Yes, it did.

13 MR. SOFER: And let's play 9A, please.

14 MR. HARTMAN: 9A?

15 MR. SOFER: 9A.

16 MR. HARTMAN: Thanks.

17 (Audio playing.)

18 BY MR. SOFER:

19 Q. And during that end part of the conversation when  
20 the defendants were talking with each other, were you able  
21 to understand everything they said?

22 A. Not everything.

23 MR. SOFER: Let's continue to 11A, please.

24 (Audio playing.)

25

1 BY MR. SOFER:

2 Q. Okay. Again, Mr. Griffin, who was present during  
3 the course of this conversation?

4 A. Marwan El-Hindi, Mohammed Amawi, and Wassim  
5 Masloun.

6 Q. And did the conversation continue beyond that?

7 A. Yes, it did.

8 MR. SOFER: Let's go to 12A, please.

9 MR. BOSS: What was that last clip, Mr. Sofer,  
10 please?

11 MR. SOFER: Last one was 11. Next one is 12.

12 MR. BOSS: Thank you.

13 (Audio playing.)

14 BY MR. SOFER:

15 Q. Marwan El-Hindi said, Zubair, do you know who he  
16 was referring to?

17 A. Zubair Ahmed.

18 Q. "Running with a .50 caliber," did that refer to a  
19 conversation that you had back in July of '04?

20 A. Yes, that was what --

21 THE COURT: Again, I'm not so sure that he has a  
22 foundation for that. The record is what it is.

23 BY MR. SOFER:

24 Q. Do you remember a conversation in which .50  
25 caliber was mentioned by Zubair, were you present for one?

1 A. Yes.

2 Q. And when was that and where was that?

3 A. It was at the ICNA -- ICNA convention, Islamic  
4 Circle of North America. It was a convention in Cleveland,  
5 Ohio.

6 Q. Okay.

7 MR. SOFER: Let's continue.

8 (Audio playing.)

9 BY MR. SOFER:

10 Q. Okay. Again, Mr. Griffin, did the conversation  
11 continue on February 16th, 2005?

12 A. Yes.

13 MR. SOFER: And if we can play 13A, please.

14 (Audio playing.)

15 BY MR. SOFER:

16 Q. That creaking door sound, can you tell us if you  
17 know where you were going?

18 A. Down the hallway, I believe it was the second  
19 room on the left.

20 Q. And was there something in that room that you  
21 were going to see?

22 A. The -- his -- one of the Marwan El-Hindi's  
23 personal computers.

24 Q. Okay. Let's continue. Tell the members of the  
25 jury who's in that room at this point.

1 A. Marwan El-Hindi, Wassim Masloun, and Mohammed  
2 Amawi and myself.

3 (Audio playing.)

4 BY MR. SOFER:

5 Q. Mr. Griffin, did the conversation in that room  
6 continue?

7 A. Yes, it did.

8 MR. SOFER: If we can play 15A, please.

9 (Audio playing.)

10 BY MR. SOFER:

11 Q. Mr. Griffin, I want to show you what's been  
12 marked Government's Exhibit Number 23, already in evidence.  
13 Can you tell us if you recognize that?

14 A. Yes, it's a CD.

15 Q. And can you tell us is -- what is depicted on  
16 Government Exhibit 23, something that was watched on  
17 February 16th, 2005 from the last clip?

18 A. Yes, it's the video we were looking at during the  
19 last clip.

20 MR. SOFER: I'm going to play a portion of this,  
21 Judge.

22 THE COURT: Okay.

23 (Video playing.)

24 BY MR. SOFER:

25 Q. Okay. Do the conversations continue, sir?

1 A. Yes, it did.

2 MR. SOFER: And if we could please play 16A.

3 (Audio playing.)

4 BY MR. SOFER:

5 Q. And did the conversation continue?

6 A. Yes, it did.

7 MR. SOFER: Let's play 17A.

8 (Audio playing.)

9 BY MR. SOFER:

10 Q. Okay. Did the conversation continue Mr. Griffin?

11 A. Yes, it did.

12 MR. SOFER: Let's play 18A.

13 (Audio playing.)

14 BY MR. SOFER:

15 Q. So sometime in that conversation, did there come  
16 a time when you left Marwan El-Hindi's apartment --

17 A. Yes.

18 Q. -- or house? And did you -- did you take anyone  
19 with you?

20 A. Yes, I took Mohammed Amawi and Wassim Masloun.

21 MR. SOFER: And could you play 19A, please.

22 (Audio playing.)

23 BY MR. SOFER:

24 Q. Okay. And what happened there, if you know, in  
25 terms of where you were with Wassim Masloun?



1 A. We picked up and dropped off Wassim Masloun at  
2 his place of employment on Monroe Street in Toledo, Ohio.

3 Q. Okay. And were you dropping him off at that  
4 point?

5 A. Yes.

6 Q. Did the conversation with Mohammed Amawi  
7 continue?

8 A. Yes.

9 MR. SOFER: Let's play 20A, please.

10 THE COURT: How much longer with this series?

11 MR. SOFER: This will be done in exactly four  
12 minutes, Judge, and then we'll be done with this series, if  
13 you want to take a break after that.

14 (Audio playing.)

15 MR. SOFER: If you want to break, Judge, now  
16 would be an opportune time.

17 THE COURT: Is this the end of the sequence?

18 MR. SOFER: It is.

19 THE COURT: We'll resume about 10:25. Thank you.

20 (A brief recess was taken.)

21 (A sidebar conference was had on the  
22 record.)

23 THE COURT: This truly will be the shortest.

24 Angela, the transcript of the proceedings this  
25 morning involving the juror, of course, will be under seal

1 and not, you know, reprinted except to counsel, but not  
2 made public without prior court order.

3 How about that?

4 (Jury brought into courtroom.)

5 THE COURT: Okay. You may resume, and  
6 Mr. Griffin you remain under oath.

7 Mr. Sofer, you may proceed.

8 MR. SOFER: Thank you, Judge.

9 BY MR. SOFER:

10 Q. Mr. Griffin, did there come a time on the 16th of  
11 February where you brought and displayed books to the three  
12 defendants related to training?

13 A. Yes.

14 Q. And whose books were those?

15 A. Those were mine.

16 Q. And I want us to take a look at Government's  
17 Exhibit Number 66 for identification. Is that one of the  
18 books that you brought to the training -- I'm sorry, to the  
19 meeting on February 16th, '05?

20 A. Yes.

21 Q. And was that book displayed to all three  
22 defendants during the course of that meeting?

23 A. Yes, I passed them around.

24 Q. And does this Government Exhibit Number 66 fairly  
25 and accurately represent at least the front of that book as

1 it was handed out on February 16th of 2005?

2 A. Yes.

3 MR. SOFER: At this time, Your Honor, the  
4 government offers Government Exhibit Number 66.

5 MR. HARTMAN: No objection.

6 THE COURT: It will be admitted.

7 BY MR. SOFER:

8 Q. Take a look at number 67, please. There was some  
9 discussion about Drager, I believe, in that conversation;  
10 is that right?

11 A. Yes.

12 Q. And is this also one of the books that you  
13 displayed to the -- all three defendants on February 16th  
14 of '05?

15 A. Yes.

16 Q. And does Government Exhibit 67 fairly and  
17 accurately represent the outside of that book as it was  
18 displayed to the defendants on February 16th of 2005?

19 A. Yes.

20 MR. SOFER: At this time the government offers 67  
21 into evidence.

22 MR. HARTMAN: Again, no objection.

23 THE COURT: It will be admitted.

24 MR. SOFER: 68, please.

25

1 BY MR. SOFER:

2 Q. Likewise, Mr. Griffin, was this one of the books  
3 that was displayed to all three defendants on  
4 February 16th, 2005?

5 A. Yes.

6 Q. And does it fairly and accurately -- that is  
7 Government Exhibit Number 68 for identification fairly and  
8 accurately represent the outside of that book as it was  
9 displayed on that date?

10 A. Yes.

11 MR. SOFER: The government offers 68 into  
12 evidence.

13 MR. HARTMAN: No objection.

14 THE COURT: It will be admitted.

15 MR. SOFER: 69, please.

16 BY MR. SOFER:

17 Q. This is yet another book that was displayed to  
18 the defendants on February 16th of '05?

19 A. Yes.

20 Q. Does it fairly and accurately represent the way  
21 the outside of that particular book looked on that date?

22 A. Yes.

23 MR. SOFER: And the government offers Government  
24 Exhibit 69.

25 MR. HARTMAN: No --

1 THE COURT: It will be admitted.

2 BY MR. SOFER:

3 Q. Exhibit 70, please. Is this one of the books  
4 that was displayed to the defendants on February 16th of  
5 '05?

6 A. Yes.

7 Q. And does this Government Exhibit Number 70 fairly  
8 and accurately represent the way the outside of that book  
9 looked on approximately that date?

10 A. Yes.

11 MR. SOFER: Government offers Government Exhibit  
12 Number 70 into evidence.

13 THE COURT: It will be admitted.

14 BY MR. SOFER:

15 Q. Finally, 71. Is this one of the books also that  
16 was displayed to the defendants on February 16th --

17 A. Yes.

18 Q. -- of '05? And does Government Exhibit Number 71  
19 fairly and accurately represent the outside of that book as  
20 it was presented to the defendants on February 16th of '05?

21 A. Yes.

22 MR. SOFER: And the government offers Government  
23 Exhibit Number 71.

24 THE COURT: It will be admitted.

25 MR. SOFER: Put up Government Exhibit Number 72,

1 please.

2 BY MR. SOFER:

3 Q. Mr. Griffin, you've grown up and lived in the  
4 Toledo area for a good portion of your life; is that  
5 correct?

6 A. Yes.

7 Q. About how many years, all together, have you  
8 lived here?

9 A. About 16.

10 Q. And some of that was on and off here in the  
11 Toledo area?

12 A. Yes.

13 Q. Are you familiar with the distances between  
14 streets and locations in the greater-Toledo area?

15 A. Yes.

16 Q. And did you become familiar with where Mohammed  
17 Amawi, Marwan El-Hindi lived?

18 A. Yes.

19 Q. And you also become familiar with where Wassim  
20 Masloun worked?

21 A. Yes.

22 Q. Okay. Does this map fairly and accurately  
23 represent at least the way that the streets are laid out  
24 and highways in the Toledo area?

25 A. Yes.

1 Q. And can you tell us -- back on February 16th,  
2 2005, I believe you testified that you drove Mohammed Amawi  
3 and Wassim Masloun over to Marwan El-Hindi's house; is that  
4 right?

5 A. Yes.

6 Q. And you stopped to pick up Mr. Masloun; is that  
7 correct?

8 A. Yes.

9 Q. Can you tell us approximately how long the drive  
10 was from Mohammed Amawi's house to Marwan El-Hindi's house?

11 A. I would say between 30 and 40 minutes.

12 Q. And is Marwan El-Hindi's home depicted on  
13 Government Exhibit Number 72, the one that you went to --

14 A. Yes.

15 Q. -- on February 16th?

16 A. Yes.

17 Q. Okay. Again, I don't know if your teleprompter  
18 is working today, but can you circle on the map where  
19 Marwan El-Hindi lived on February 16th, 2005, during the  
20 meeting that we just heard about?

21 A. (Witness complies.)

22 MR. SOFER: And the record should reflect that  
23 the witness has circled a box located at 3525 Mayo Street  
24 in Toledo. Can you go back?

25 THE COURT: It does.

1 MR. SOFER: Thank you.

2 BY MR. SOFER:

3 Q. Can you tell us at that time where -- if you  
4 know, where Mohammed Amawi lived?

5 A. Yes.

6 Q. And can you circle on Government's Exhibit Number  
7 72 approximately where Mohammed Amawi lived on  
8 February 16th of 2005?

9 A. (Witness complies.)

10 Q. And again, you said the drive distance between  
11 those two was between 30 and 40 minutes; is that what you  
12 said?

13 A. Yes.

14 MR. SOFER: At this time, Your Honor, the  
15 government offers 72 into evidence.

16 THE COURT: It will be admitted.

17 BY MR. SOFER:

18 Q. By the way, do you see on that map approximately  
19 where it is that you picked up Wassim Masloun?

20 A. I believe so.

21 Q. And can you circle the area at least where Wassim  
22 Masloun was working during that period of time, if you  
23 know?

24 A. (Witness complies.)

25 Q. And for the record, that's somewhere in the



1 neighborhood between Secor and Nebraska Avenue in between  
2 what appears to be Hill Avenue and Bancroft Street?

3 THE COURT: Was that on Douglas Road,  
4 Mr. Griffin?

5 THE WITNESS: Actually it was on Monroe Street.

6 THE COURT: I understand where you pick -- the  
7 question is where you picked him up.

8 MR. SOFER: Yes, Judge.

9 THE WITNESS: I picked him up on Monroe Street.  
10 I'm not sure of the address. I think it's adjacent to  
11 Tiger Bakery.

12 THE COURT: Would that be approximately Monroe  
13 and Douglas?

14 THE WITNESS: Yes.

15 THE COURT: Okay.

16 BY MR. SOFER:

17 Q. Okay. Now, let me show you exhibit --

18 THE COURT: Excuse me, have you circled that  
19 area?

20 THE WITNESS: Actually, I just circled right  
21 there at Douglas. I thought that was Monroe Street that  
22 goes east and west.

23 BY MR. SOFER:

24 Q. That map does not indicate all of the streets; is  
25 that correct?

1 A. I don't believe so.

2 Q. And are you circling a general area where you  
3 believe that you picked him up?

4 A. Yes.

5 Q. Okay. I want to show you what's been marked  
6 Government Exhibit Number 62.

7 THE COURT: Did you say 62?

8 MR. SOFER: Yes, Judge.

9 THE COURT: And Amy, the following exhibits have  
10 been admitted, 66 through 72, 72 inclusive.

11 MR. SOFER: Yes, Judge.

12 THE COURT: She had to step out for a moment.

13 Okay. Go ahead.

14 BY MR. SOFER:

15 Q. Tell us -- first of all, how many pages are in  
16 Government's Exhibit Number 62 for identification?

17 A. Three.

18 Q. And do you recognize those pages?

19 A. Yes, I do.

20 Q. Where did you get those pages from?

21 A. I received them from Marwan El-Hindi.

22 Q. And can you tell us basically what's on those  
23 pages, if you can describe it, Government's Exhibit 62, for  
24 identification?

25 MR. HARTMAN: Objection. Language.

1 BY MR. SOFER:

2 Q. Well, is there some English language on those  
3 three pages?

4 A. Yes, there is.

5 Q. And can you tell us --

6 THE COURT: He can describe it. It's a document  
7 apparently, whatever, he can describe what he sees.

8 The jury -- the evidence, ladies and gentlemen,  
9 will be what you see, okay, with the document.

10 MR. SOFER: I think we can actually put this up  
11 on the screen, Exhibit 62.

12 BY MR. SOFER:

13 Q. On the first page, Government Exhibit Number 62,  
14 is there some English on there?

15 A. Yes.

16 Q. And again, do you recognize that English?

17 A. Yes.

18 Q. Can you tell us, do you know where you got this  
19 document from?

20 A. Marwan El-Hindi.

21 Q. And can you tell us, did that take place on or  
22 about February 16th of '05?

23 A. Yes.

24 Q. If we could just --

25 MR. SOFER: At this time, Your Honor -- does --

1 BY MR. SOFER:

2 Q. What's depicted in Government's Exhibit Number  
3 62 -- which you actually have in your hand is Government  
4 Exhibit Number 62 for identification -- is that -- are  
5 those the documents you received from Marwan El-Hindi on or  
6 about February 16th of '05?

7 A. Yes.

8 MR. SOFER: At this the time, Your Honor, the  
9 government offers Government Exhibit Number 62 into  
10 evidence.

11 THE COURT: It will be admitted.

12 MR. SOFER: If we can just show the next two  
13 pages, please, to the members of the jury.

14 BY MR. SOFER:

15 Q. Now, Mr. Griffin, I want to direct your attention  
16 to two days later, on February 18th of 2005. Did there  
17 come a time two days later when you met with Marwan  
18 El-Hindi again?

19 A. Yes.

20 Q. And do you recall where it was that you met him?

21 A. I believe that at his Main Street address.

22 MR. SOFER: And if we can play, please, 1D9,  
23 Exhibit Number 4-77, and it's clip 1A. And I have a little  
24 note here that there's a point where we need to turn down  
25 the audio because I think it comes up a little bit. We'll

1 try to stop it.

2 Wait for the jury to make sure everyone has their  
3 head sets on. Okay. If we can play 1A, please?

4 (Audio playing.)

5 BY MR. SOFER:

6 Q. Can you tell the members of the jury where you  
7 were in the Mayo Street address when this took place, if  
8 you know?

9 A. I believe we're in the second room on the left,  
10 which a computer was located.

11 MR. SOFER: Let's continue.

12 (Audio playing.)

13 BY MR. SOFER:

14 Q. To the best of your recollection, would you tell  
15 the members of the jury what was happening at this  
16 juncture?

17 A. He had --

18 Q. Who's he?

19 A. Marwan El-Hindi had showed me an e-mail, and he  
20 wanted me to cut the top of the e-mail off because it  
21 contained his name.

22 Q. Do you recall where that e-mail came from?

23 A. I believe the Just Jeans Company.

24 Q. And did that Just Jeans Company e-mail, was that  
25 something you had discussed on the 16th as well?

1 A. Yes.

2 Q. Okay.

3 MR. SOFER: Let's continue.

4 (Audio playing.)

5 BY MR. SOFER:

6 Q. Okay. Did Marwan El-Hindi give you the e-mail  
7 that you were just talking about there?

8 A. Yes.

9 Q. And there was something there that described a  
10 place where there were a lot of videos to download; is that  
11 correct?

12 A. Yes.

13 Q. Okay. I want to show you what's been marked  
14 Government's Exhibit Number 73 for identification.

15 MR. SOFER: Counsel do you need this? It's in  
16 your exhibit books.

17 BY MR. SOFER:

18 Q. By the way, the previous document, that is  
19 Government's Exhibit Number 62, did you give that Ansar  
20 Jihad page to the FBI?

21 A. Yes, I did.

22 Q. Go back to this one now. Did you -- can you tell  
23 us what is -- what you're holding in your hand, that is  
24 Government Exhibit Number 73 for identification?

25 A. The e-mail that I received from Marwan El-Hindi

1 on this day.

2 MR. SOFER: And -- I asked that we magnify the  
3 top portion.

4 BY MR. SOFER:

5 Q. Is that subject-from-to area, is that -- is that  
6 what you were referring to or he was?

7 THE COURT: Is there any way you can --

8 MR. SOFER: We're trying, Judge. There we go.

9 BY MR. SOFER:

10 Q. Marwan El-Hindi said something about the top of  
11 the document; is that right?

12 A. Yes.

13 Q. Is this what he was referring to, to the best of  
14 your recollection?

15 A. Yes.

16 Q. And what did he want you to do with this?

17 A. To cut it off.

18 Q. Did you cut it off?

19 A. I did not.

20 Q. And what did you do with this -- did you receive  
21 this document, both pages, from Marwan El-Hindi?

22 A. Yes, I did.

23 Q. And what did you do with it after you received  
24 it?

25 A. I turned it over to the FBI.

1 Q. We'll go back to the whole -- how many pages is  
2 Government Exhibit Number 73?

3 A. Two.

4 Q. And did there come a time when you wrote  
5 something on Government's Exhibit Number 73?

6 A. Yes.

7 Q. Okay. Can't see it on the screen, but where on  
8 Government's Exhibit Number 73 for identification did you  
9 write?

10 A. On the back of page 2.

11 Q. And can you tell us what you wrote back there?

12 A. I wrote a website which I believed at the time  
13 that the e-mail was.

14 MR. HARTMAN: Objection. Objection. I think the  
15 government can maybe clear this up. Is that where we're  
16 talking about?

17 Okay, that's fine.

18 BY MR. SOFER:

19 Q. The third page in the exhibit book, but on what  
20 you have, it's not a third page, that's the original  
21 document you're holding?

22 A. Yes.

23 Q. Is that what you turned over to the FBI?

24 A. Yes, I did.

25 Q. Is that the actual paper you wrote on?



1 A. Yes, it is.

2 Q. Okay. Now, what's on the screen now, which is  
3 the third page of Government's Exhibit Number 73, is that  
4 your writing?

5 A. Yes, it is.

6 Q. And I think you were in the middle of testifying  
7 about what you believe this to be?

8 A. I believe this to be the website of which this  
9 e-mail was sent from.

10 Q. Okay. There was something referred to as a  
11 website where videos to be downloaded; is that right?

12 A. Yes.

13 MR. HARTMAN: Your Honor, I'm going to object to  
14 that.

15 THE COURT: Pardon?

16 MR. HARTMAN: I'm going to object to that. Can  
17 we approach, please?

18 THE COURT: Sure.

19 Disregard the question for now.

20 (A sidebar conference was had on the  
21 record.)

22 THE COURT: Okay. Everybody here?

23 MR. HARTMAN: Basis for the objection, Judge, is  
24 because --

25 THE COURT: You can speak louder.

1 MR. HARTMAN: The document speaks for itself and  
2 it says where it came from, not so much that I don't think  
3 there's any foundation that this e-mail came from there,  
4 when he just testified that to and from accurately reflect  
5 what was on the e-mail.

6 MR. BOSS: If I may add, Judge, the bottom of the  
7 page is the printout of where it actually came from, which  
8 differs from what is written on the back by the witness.

9 MR. SOFER: I love these objections but only  
10 because if they want to cross-examine him about what he  
11 says, that's fine. I can ask him if he knows what the  
12 connection was or if he knows where this came from, I  
13 think.

14 THE COURT: I think -- I may have missed it. Has  
15 he been asked how he came to write that?

16 MR. SOFER: I'll try to clarify that.

17 THE COURT: Let's sort of lay that.

18 They should come up.

19 MR. SOFER: Moe's right here.

20 MR. BOSS: He's the one who's --

21 THE COURT: I just want to say, subject to  
22 argument perhaps, over the noon -- how two things -- first  
23 of all, I think now it's sufficient basis relative to a  
24 conspiracy.

25 Subject to argument by counsel over the noon hour

1 later this afternoon, I think the basis for admission of  
2 co-conspirator statements has been established. I say that  
3 now because I can anticipate that that might be on -- on --  
4 I have no idea.

5 MR. SOFER: This is going to get connected up  
6 later with those kinds of things, Judge, but I think  
7 basically if I can -- if I can ask him some pointed  
8 questions, I think this will be clarified.

9 THE COURT: This seemed to pop out of the blue.

10 MR. SOFER: I understand what counsel's saying,  
11 and it's clear that the actual -- the actual e-mail itself  
12 does not come from this, so I think there's a connection  
13 between the two things, and the witnesses might at least --  
14 and I'll try to explore that. I was trying to do that when  
15 counsel objected.

16 THE COURT: And this can be off the record.

17 (A brief discussion was had off the record.)

18 THE COURT: Ruling -- I'll reserve a ruling on  
19 the objection.

20 (Sidebar concluded.)

21 THE COURT: I've reserved the ruling on the  
22 pending objection, but you may proceed.

23 BY MR. SOFER:

24 Q. Mr. Griffin, you wrote something on the back of  
25 Government Exhibit Number 73, correct?

1 A. Yes.

2 Q. And can you tell us, as best you can recall,  
3 where what you wrote on the back of 73 came from?

4 A. I believe it came from the website, which this  
5 e-mail was coming from, the response.

6 Q. And are you familiar with the difference between  
7 a website and a e-mail group?

8 A. Vaguely.

9 Q. Were you trying to gather information at that  
10 time related to the information that was on the computer  
11 screen?

12 A. Yes.

13 Q. And was the website that you wrote down connected  
14 in some way to what was being viewed on the computer at  
15 that time?

16 MR. HARTMAN: Objection. Vaguely familiar with  
17 it.

18 THE COURT: Well, he's moved on. I'm going to  
19 let the answer stand.

20 Go ahead.

21 BY MR. SOFER:

22 Q. Was the website that you wrote down, that is this  
23 http://Ekhlase -- I won't read the rest of it -- was that  
24 in some way connected to what was being viewed on the  
25 computer screen at or about the time that the e-mail was

1 being shown to you?

2 A. Yes.

3 Q. Did you, in your mind, associate the two  
4 together?

5 A. Yes.

6 Q. Are you --

7 THE COURT: I did not hear your question.

8 MR. SOFER: I'm sorry.

9 BY MR. SOFER:

10 Q. Did you, in your mind, associate the two together  
11 in some way?

12 A. Yes.

13 MR. SOFER: At this time, Your Honor, the  
14 government offers Government Exhibit Number 73 into  
15 evidence.

16 THE COURT: Unless there's an objection, I'd like  
17 to have him tell us how that happened to be or if you can  
18 connect that up somehow.

19 BY MR. SOFER:

20 Q. How did you -- as best as you recall, how did you  
21 connect the website with the e-mail, if you remember?

22 A. We were viewing the website, and I was told that  
23 the response -- this response was --

24 MR. BOSS: Objection, Your Honor. The tape, I  
25 think, would be the best evidence of what he was told.

1 MR. SOFER: And that's fine with the government.

2 THE COURT: That's fine. Okay.

3 MR. SOFER: I think the witness's answer should  
4 just stand.

5 THE COURT: That's fine.

6 MR. SOFER: He's explained it the best he can.

7 THE COURT: That's fine. That's fine. No  
8 problem. You may continue.

9 MR. SOFER: Thank you, Judge.

10 BY MR. SOFER:

11 Q. What did you do with Government Exhibit Number 73  
12 after you got the e-mail?

13 A. I turned it over to the FBI.

14 Q. And again, that's your writing on the back of it?

15 A. Yes, it is.

16 Q. And for the record, can you -- for the record  
17 what's the <http://Ekhlaas.com/form/slowtheread.php?+=618>.  
18 I don't know, is there a -- on the original, if -- are you  
19 able to see if there's another number after the eight?

20 A. I don't know if that's a one or my bad  
21 handwriting.

22 Q. Okay. There may be a one after it?

23 A. Possibly.

24 MR. SOFER: Okay. And again, if I haven't  
25 already, government offers Exhibit Number 73.

1 MR. HARTMAN: Judge, I would just -- pending  
2 further testimony by computer forensics --

3 THE COURT: I'll permit you to tie that up in due  
4 course, but I'll reserve the ruling on that.

5 I will remind you, Mr. Sofer, I will ask you to  
6 remind me or remind yourself to offer --

7 MR. SOFER: We'll come back to this, Judge, in  
8 some way.

9 BY MR. SOFER:

10 Q. I want to direct your attention -- well, strike  
11 that.

12 MR. SOFER: Let's continue with what -- 1A,  
13 please, from 1D9, Exhibit Number 4-77.

14 (Audio playing.)

15 MR. HARTMAN: Judge, Your Honor, I wonder if we  
16 can find a way -- this is really not clear.

17 MR. SOFER: It's a little light, but I can hear  
18 it, Judge.

19 THE COURT: I can hear it fine.

20 MR. HARTMAN: Maybe it's me.

21 MR. SOFER: Did you turn the volume up on your --

22 THE COURT: The little wheels are volume.

23 MR. HARTMAN: Yeah, I know, I tried that.

24 MR. SOFER: Can we ask the jury whether  
25 they're --

1 THE COURT: Are you able to hear?

2 JUROR: Yeah, it's light.

3 MR. SOFER: Are you making it out? This one's a  
4 little lower. We're trying to boost up the sound.

5 THE COURT: Remind everybody, it's the low  
6 bidder.

7 MR. SOFER: Next time we'll see what we can do.

8 THE COURT: Go ahead.

9 (Audio playing.)

10 MR. SOFER: We're going to turn this down, Your  
11 Honor, because I believe the recording is going to spike up  
12 here for a second. So I want to warn everybody at 30:05 on  
13 the red numbers, I think.

14 BY MR. SOFER:

15 Q. Is this about when you made those notes on the  
16 back of that paper, if you recall?

17 A. Yes.

18 MR. SOFER: Continue.

19 (Audio playing.)

20 BY MR. SOFER:

21 Q. Mr. Griffin, on this particular day, did Marwan  
22 El-Hindi help you register for something?

23 A. Yes, he did.

24 Q. And did there come a time when you received some  
25 sort of confirmation for the registration that you had



1 signed up with, with the help of Marwan El-Hindi?

2 A. Yes.

3 Q. And I want to show you what's been marked  
4 Government Exhibit Number 74 for identification in your  
5 books. Can you tell the members of the jury if you  
6 recognize Government's Exhibit Number 74?

7 A. Yes, I do.

8 MR. SOFER: And can we put 74 up on the screen as  
9 well?

10 BY MR. SOFER:

11 Q. Is that the confirmation that you were just  
12 describing?

13 MR. HARTMAN: Objection.

14 THE COURT: Basis?

15 MR. HARTMAN: I mean --

16 MR. BOSS: May we approach, Judge?

17 THE COURT: You may approach.

18 MR. SOFER: Do you want us to take it off the  
19 screen, Judge.

20 THE COURT: Please, disregard that for now,  
21 ladies and gentlemen.

22 (A sidebar conference was had on the  
23 record.)

24 MR. HARTMAN: Judge, Exhibit 74 isn't --

25 THE COURT: You can speak louder. They cannot

1 hear us.

2 MR. HARTMAN: I'm just saying he, I suppose, can  
3 testify to what he thinks it is. It's not even in a real  
4 language to know what it is.

5 THE COURT: Why don't you say, is the  
6 confirmation --

7 MR. HARTMAN: But how does he know that? The  
8 point is he can't.

9 THE COURT: It was sent to him; am I correct?

10 MR. SOFER: Yes, it's got his e-mail address on  
11 it. I go back to this --

12 THE COURT: That's what he got --

13 MR. SOFER: If counsel wants to argue these  
14 things later.

15 THE COURT: One at a time. I don't understand  
16 the basis for the objection. He's testifying this is what  
17 he got. It will speak for itself.

18 MR. HARTMAN: This is what he got.

19 THE COURT: And if something happened after that,  
20 after getting it, what happened, I would agree he can't  
21 say -- he can't deviate from the text of whatever that is  
22 unless there's a foundation.

23 MR. HARTMAN: And what I mean, saying -- is  
24 there's no foundation for him saying what this text is  
25 because there's no language there. It's not even Arabic or

1 anything, it's gibberish.

2 MR. SOFER: We've got a little problem here  
3 because, again, I'm not going to sit here and explain to  
4 counsel why it is they're wrong about that. I don't think  
5 that's appropriate and fair to the government. I'm going  
6 to bring out -- I will bring out some more about this if  
7 I'm permitted to. If not, I'm willing to just let it go  
8 in, and we'll connect it up later.

9 THE COURT: Go ahead.

10 MR. SOFER: Also some issue on this which makes  
11 it fairly clear where it came from.

12 THE COURT: Fine, go ahead and ask him. I'll  
13 reserve ruling.

14 MR. SOFER: I'd like an opportunity, maybe 10  
15 minutes before the lunch break, to discuss with The Court  
16 an issue which relates to all of this which is very  
17 important to the government. And we'd like 10 or 15  
18 minutes of an opportunity to argue at a certain point that  
19 relates to this very testimony, this very evidence because  
20 it's new. Your Honor has seen it, the jury has seen it, I  
21 think it makes sense to do that. If you'll give us ten  
22 minutes before or after the lunch break, that's my request.

23 THE COURT: Okay.

24 MR. HARTMAN: That's fine.

25 (Sidebar concludes.)

1 MR. SOFER: Can we put 74 back up on the screen,  
2 please?

3 THE COURT: You may.

4 BY MR. SOFER:

5 Q. For lack of a better word, it looks like most of  
6 what's on here is wingding or some other kind of writing  
7 that is -- I've certainly never seen. Can you tell the  
8 members of the jury, if you know, why that is?

9 A. My PC or my printer cannot do Arabic characters.

10 Q. Your printer -- and where was your printer?

11 A. In my apartment.

12 Q. Okay. And so when you received this, what you've  
13 described as this confirmation, can you tell us the --  
14 there is some English language on here, correct?

15 A. Yes.

16 Q. Do you see it -- an e-mail address that you  
17 recognize?

18 A. Yes.

19 Q. And can you circle that using the green  
20 teleprompter as best you can?

21 A. (Witness complies.)

22 MR. SOFER: And for the record, Your Honor, the  
23 witness has circled Abu\_Jihad@SBCglobal.net.

24 BY MR. SOFER:

25 Q. Whose e-mail address is that?

1 A. That is mine.

2 Q. Now, below that, there are some of these odd  
3 characters. Do you see some further English?

4 A. Yes.

5 Q. And can you circle that for the members of the  
6 jury?

7 A. (Witness complies.)

8 MR. SOFER: And for the record, the witness has  
9 circled Ekhlaase@hotmail.com.

10 BY MR. SOFER:

11 Q. Is the Abu\_Jihad@SBCglobal.net e-mail address  
12 familiar to you?

13 A. Yes, it is.

14 Q. What is it?

15 A. It is my e-mail address.

16 Q. And based on what you see here, are you able  
17 to -- do you see anything else here that's in English below  
18 the Ekhlaase@hotmail.com?

19 A. Yes.

20 Q. And can you circle that for the members of the  
21 jury?

22 A. (Witness complies.)

23 Q. And did you recognize what that is?

24 A. That is the user name that was used.

25 Q. And next to that?

1 THE COURT: I'm sorry, I did not hear your  
2 answer.

3 A. That is the user name that we used to sign in.

4 BY MR. SOFER:

5 Q. And when you say "we," who are you referring to?

6 A. Myself and Marwan El-Hindi.

7 Q. Other -- take a look on the whole at Government's  
8 Exhibit Number 74. Is that what you believe to be the  
9 confirmation that you received for the training that you  
10 were signed up for on February 18th?

11 A. Yes.

12 MR. SOFER: And at this time the government  
13 offers Government Exhibit Number 74.

14 THE COURT: I'll reserve ruling on it. You may  
15 proceed.

16 BY MR. SOFER:

17 Q. Did you -- what did you do after printing this  
18 out with this particular document?

19 A. I pointed to the user name.

20 Q. No, no. I'm not asking what you did in court.  
21 What did you do with this document ultimately?

22 A. I turned it over to the FBI.

23 Q. And again, do you recall the agent or agents that  
24 you turned it over to, if you know?

25 A. Either Bill Radcliff or Shannon Coats.

1 Q. Okay. I want to direct your attention now to  
2 February 25th, 2005, approximately a week later. Did there  
3 come a time when you, again, met with Marwan El-Hindi at  
4 his home?

5 A. Yes.

6 MR. SOFER: And if we can, I'd like to play 4-78,  
7 Exhibit 4-78, it's 1D10; and it's segment 1A to start with.  
8 BY MR. SOFER:

9 Q. Before we play it, that Abu\_Jihad account, was  
10 that set up by you or by somebody else?

11 A. That was set up by myself.

12 Q. And was it set up -- did you have any input about  
13 why that account should be set up? Did you talk to the FBI  
14 about that account?

15 A. I believe so.

16 Q. And were they aware of that account as well?

17 A. Yes.

18 Q. Okay.

19 (Audio playing.)

20 MR. BOSS: Could we have a moment, please? I  
21 apologize, Your Honor, and ladies and gentlemen, I just had  
22 the wrong place in my transcript. Thank you.

23 THE COURT: Okay. You may resume.

24 MR. SOFER: Judge, if we can have just one  
25 second, please, there's something technically we have to --

1 can we block the jury's view, please.

2 MR. SIEVE: Your Honor, if I may just clarify the  
3 record, I believe the wrong clip started to be played and  
4 there's a reference to Mohammed Amawi; am I correct in  
5 that?

6 MR. SOFER: No. But you're close, it's actually  
7 for the reference Mr. Masloun and it's --

8 MR. SIEVE: I thought the testimony was that he  
9 met with Mr. --

10 THE COURT: That's okay. I thought he said  
11 El-Hindi.

12 MR. SOFER: I did.

13 THE COURT: And --

14 MR. SOFER: And there's a picture of someone  
15 other than Mr. El-Hindi in there that I wanted to take out.

16 THE COURT: Oh. I can also tell the jury just to  
17 disregard it.

18 MR. SOFER: I understand, Judge. But -- okay.

19 THE COURT: Here I thought we were going to be  
20 technically glitchless today. Okey dokey. Go ahead.

21 (Audio playing.)

22 BY MR. SOFER:

23 Q. Okay. Mr. Griffin, to the best of your  
24 recollection, can you tell us what that conversation was  
25 referring to, generally?



1 A. About getting the grants and using them for  
2 training.

3 MR. SOFER: Let's continue, please.

4 MR. BOSS: Objection.

5 THE COURT: I would tend to agree. Let's get a  
6 foundation here. I'm going to sustain the objection.

7 MR. SOFER: Judge, I believe the foundation has  
8 been laid.

9 THE COURT: I'm not going to sustain the  
10 objection, then. I'll just -- the conversation will speak  
11 for itself.

12 BY MR. SOFER:

13 Q. Have you had previous conversations, including on  
14 February 16th, 2005, about Marwan El-Hindi being the "grant  
15 guy," for lack of a better term?

16 A. Yes.

17 Q. And during that conversation, did you discuss  
18 diverting some of those funds for the training for Jihad?

19 MR. HARTMAN: Objection.

20 THE COURT: Who said what?

21 BY MR. SOFER:

22 Q. Do you recall what those conversations were  
23 about?

24 A. Yes, part of them were about the grants.

25 Q. Let's continue.

1 THE COURT: And when were those conversations  
2 again, if you remember?

3 THE WITNESS: On the 16th, Your Honor.

4 BY MR. SOFER:

5 Q. And again, can you tell the members of the jury  
6 where you were, if you know, on February 25th of '05?

7 A. At the Marwan El-Hindi's Mayo Street apartment.

8 Q. Are you able to tell from the noises or anything  
9 approximately where you were in the home?

10 A. The front room.

11 MR. SOFER: And let's play 3A, please.

12 (Audio playing.)

13 BY MR. SOFER:

14 Q. Okay. And can we -- did the conversation  
15 continue?

16 A. Yes, it did.

17 MR. SOFER: And can we play 4A, please?

18 (Audio playing.)

19 BY MR. SOFER:

20 Q. Mr. Griffin, you had given Marwan El-Hindi an  
21 e-mail address there; is that correct?

22 A. Yes.

23 Q. Is that your e-mail address that you described  
24 previously?

25 A. Yes.

1 Q. And you had asked him to forward something to  
2 you?

3 A. Yes.

4 Q. Somewhere previous in the conversation he  
5 described, you and he discussed some sort of operation?

6 A. Yes.

7 Q. Can you tell the members of the jury, if you  
8 remember, what that operation was that was being described?

9 A. They were still photos of the placement and  
10 deployment of an improvised explosive device.

11 Q. And did you ask Marwan El-Hindi to forward it to  
12 you?

13 A. Yes, I did.

14 MR. SOFER: Let's continue to the end of this.

15 (Audio playing.)

16 BY MR. SOFER:

17 Q. Okay. If you know, did Marwan El-Hindi, in fact,  
18 forward to that account that you gave him an e-mail?

19 A. Yes, he did.

20 MR. SOFER: And I want us to put up on the screen  
21 Government's Exhibit Number 79 for identification. Can we  
22 magnify the top of this document, please? Okay.

23 BY MR. SOFER:

24 Q. Can you tell us again whether you recognize an  
25 e-mail account or multiple e-mail accounts on Government's

1 Exhibit Number 79?

2 A. Yes, the from and to.

3 Q. Can you tell the members of the jury who those  
4 e-mail accounts are for?

5 A. The from line is Marwan El-Hindi and the to line  
6 is myself.

7 Q. And can you tell us the date that's on this?

8 A. February 25th, 2005.

9 MR. SOFER: Okay. If we can put the main  
10 document up again.

11 BY MR. SOFER:

12 Q. There's something else depicted on the first page  
13 of this document. Do you recognize that? That is a  
14 picture?

15 A. Yes.

16 Q. Can you tell the members of jury what that is?

17 A. It seems to be an aftermath of a IED that hit a  
18 humvee.

19 Q. And do you recognize that particular picture in  
20 this particular e-mail?

21 A. Yes.

22 Q. Do you recognize it from February 25th?

23 A. Yes, I do.

24 Q. Is that the same IED operation that you were  
25 describing before that you were discussing with Marwan

1 El-Hindi on February 25th, 2005, that we just listened to?

2 A. Yes.

3 MR. SOFER: And if we could show the next page of  
4 Government's Exhibit Number 79.

5 BY MR. SOFER:

6 Q. Likewise, are these further pictures from that  
7 particular e-mail?

8 A. Yes.

9 MR. SOFER: If we can go to the next page,  
10 please? And the next page, please.

11 BY MR. SOFER:

12 Q. And can you tell the members of the jury, as best  
13 as you recall, are these particular pictures discussed back  
14 on February 25th, 2005?

15 A. Yes, they were.

16 MR. SOFER: And let's continue to the next page.  
17 And continue to the next page, I'll leave them up a little  
18 bit longer so we can see them.

19 BY MR. SOFER:

20 Q. You had a conversation with Marwan El-Hindi about  
21 batteries?

22 A. Yes.

23 Q. Is this the page that was being displayed on the  
24 computer when you had that conversation or not?

25 A. Yes.

1 MR. SOFER: Continue.

2 BY MR. SOFER:

3 Q. Was there some conversation about observation  
4 posts also?

5 A. Yes.

6 Q. And was this the photograph or picture that was  
7 displayed at approximately that time?

8 A. Yes.

9 MR. SOFER: Next page, please.

10 BY MR. SOFER:

11 Q. And there was some discussion about elements as  
12 well?

13 A. Yes.

14 Q. Was this the page that was being displayed at  
15 that point?

16 A. Yes.

17 MR. SOFER: Continue to the next page, please.

18 BY MR. SOFER:

19 Q. This writing also, is this present on the  
20 particular photographs that were contained in the e-mail  
21 that you were discussing on February 25th, 2005 with Marwan  
22 El-Hindi?

23 A. Yes, it was.

24 MR. SOFER: We'll go to the next page now.

25 BY MR. SOFER:

1 Q. Did Marwan El-Hindi ask questions about the  
2 strength of armored vehicles?

3 A. Yes, he did.

4 Q. Was this one of the photographs that was  
5 displayed at approximately that time?

6 A. Yes.

7 MR. SOFER: Continue to the next page.

8 BY MR. SOFER:

9 Q. Is this one of the other pages that were shown  
10 e-mail?

11 A. Yes.

12 MR. SOFER: If we can go to the next page?

13 BY MR. SOFER:

14 Q. And finally, does Government's Exhibit Number 79  
15 fairly and accurately represent what was being viewed on  
16 that day, and what was sent to you by Marwan El-Hindi?

17 A. Yes.

18 Q. What did you do with this e-mail after you  
19 received it?

20 A. I forwarded it to the FBI.

21 MR. SOFER: And if we can highlight the very top  
22 of the page, please.

23 BY MR. SOFER:

24 Q. Do you recognize e-mail addresses there?

25 A. Yes, I do.

1 Q. Can you tell the members of the jury which ones  
2 you recognize?

3 A. The from line and the to line.

4 Q. Again, can you tell us who the from is?

5 A. That is mine.

6 Q. Can you tell the members of the jury who the to  
7 line is?

8 A. The FBI.

9 Q. And had you been given that account by the FBI to  
10 communicate with them?

11 A. Yes.

12 MR. SOFER: For the record, that reads  
13 AHMED\_AHMED\_1079@hotmail.com.

14 At this time the government offers Government  
15 Exhibit Number 79 into evidence.

16 THE COURT: It will be admitted.

17 MR. SOFER: And, Your Honor, now would be another  
18 opportune time to stop, if you choose.

19 THE COURT: Yep.

20 Ladies and gentlemen, we're going to take a  
21 little bit longer for lunch today. We're going to try to  
22 resume at 1:15. If you can be available about 1:00, that  
23 would be helpful. We may be able to start a little sooner.  
24 Thank you.

25 (A brief recess was taken for lunch.)



1 (Jury excused.)

2 MR. SOFER: Your Honor, we thought this would be  
3 an opportune time -- I'm going to let Mr. Herdman make the  
4 crux of the argument -- I think you probably know where I'm  
5 going here, but if nothing else, in the case shows the  
6 importance of the government being able to explain the  
7 connection between certain websites, certain Yahoo groups,  
8 and also, I think it's fairly clear that the witness has on  
9 the stand does not possess either the knowledge or the  
10 expertise to be able to describe that, I think the last  
11 pieces of testimony really do that.

12 And specifically, though, there's fact-based  
13 testimony to explain what this particular website was. For  
14 instance, we talk about the Ekhlaas website, which was put  
15 up there, what was on it, and I'll let -- I'll let  
16 Mr. Herdman finish this.

17 THE COURT: Candidly, I'm not --

18 Is this on? She may have muted it. I think she  
19 did mute it.

20 I don't think I have a problem with him saying  
21 Ekhlaas is a source for obtaining e-mails. Am I correct  
22 about this? I get confused.

23 MR. SOFER: It would -- it's a source. He can  
24 call this a website -- it's actually a forum, if you will.  
25 There are numerous things posted on it. For instance, on

1 this particular day --

2 THE COURT: Let me -- I'm less concerned about  
3 what something is and how someone gets to it -- in other  
4 words, what steps one has to follow -- and I'm also less  
5 concerned about the fact that they are sometimes taken down  
6 or shut down. My principal concern is connecting a  
7 particular -- particular videos that were either viewed or  
8 downloaded or other materials with attributing those to a  
9 particular source, and then sort of going on from there.

10 I mean, quite candidly, I don't want him coming  
11 in talking about Chechnya and Mujahideen and all of this  
12 stuff, but to have him come in -- or another qualified  
13 witness come in -- and say this was a source for obtaining  
14 these kinds of materials, and here's how a person would  
15 access that source. And I think I would not -- I'd have a  
16 problem with him saying, and it's really super difficult or  
17 whatever. Simply describe the steps that would have to be  
18 taken or if he knows based upon the data that's  
19 available --

20 Was that Amy?

21 -- or if he knows, say, this is what was done to  
22 access this website, to register for this website, and then  
23 to describe --

24 Amy, I think you muted the mics, that's all.

25 And Tracy, what's your timetable? Do you have to

1 be somewhere?

2 (A brief discussion was had off the record.)

3 THE COURT: It's that kind of sort of basic  
4 communication. I don't want testimony about who sponsors  
5 it. I don't want -- because there's -- I don't want  
6 testimony about who the -- who provided the materials that  
7 are viewed, but in terms of just saying, look, you can go  
8 to this website or this e-mail address or whatever. This  
9 is what you'd be able to view or if it's a source of the  
10 e-mail, whatever you call it, where you signed up to  
11 receive periodic e-mailings -- I get WestClip, for example,  
12 on certain subjects -- how one goes about to sign up for  
13 that and so forth. I don't have a problem with that.

14 MR. SOFER: Let me, again --

15 THE COURT: I'll hear from these guys. I'm just  
16 trying to get a sense --

17 MR. SOFER: Understood. Two quick points, for  
18 instance on the issue you just mentioned, this Yahoo  
19 group -- which you can actually hear in the recording is  
20 IAI -- Islamic Army of Iraq. Well, I think the government  
21 should be permitted to explain to the jury what that stands  
22 for. It stands for the Islamic State of Iraq. It doesn't  
23 stand for some corporation in California.

24 THE COURT: Now that you say that, I don't think  
25 I've got a problem with that.

1 Do you know what that is?

2 MR. SOFER: We don't have to hash this out now.

3 THE COURT: My concern -- I'm concerned about him  
4 sort of testifying about anything or in a way that suggests  
5 that these folks had some sort of connection with the  
6 various sponsoring groups or whatever.

7 MR. SOFER: I understand. Again, all we're  
8 trying to do here is stop -- stop at this juncture of the  
9 proceedings to put a point on some of the arguments we've  
10 been trying to make.

11 And again, I think what happened, Mr. Kohlmann,  
12 again, as another example, can -- for instance, he can  
13 testify in that string of writing that Darren Griffin wrote  
14 on the back of that page, is an actual posting that comes  
15 from that particular website. Well, Mr. Kohlmann has been  
16 collecting the postings from those websites for years now,  
17 so he can actually tell us exactly what posting that is and  
18 it turns out as a -- it's relevant to, of course, what --

19 THE COURT: Okay. Again, was that posting viewed  
20 by --

21 MR. HERDMAN: Yes, Your Honor. From the  
22 recording, it's clear that they're looking at these  
23 posting --

24 THE COURT: That's what they were looking at, are  
25 you going to show that particular video?

1           MR. SOFER: We've already played -- it's just an  
2 audio. It's audio what they were doing on the computer.

3           THE COURT: So you're not going to redo that.

4           MR. HERDMAN: We actually have the web page, an  
5 archived version of that page that Mr. El-Hindi and  
6 Mr. Griffin were viewing on February 25th.

7           MR. SOFER: Again, we're just trying to do this  
8 by way of demonstration, Your Honor, at a point where it's  
9 fresh -- fresh in The Court's mind so you can see what it  
10 is the government's not trying to do.

11           We're not asking to have Mr. Kohlmann testify  
12 that Al-Qaeda, you know, Osama bin Laden sent the  
13 defendants e-mails. That's not what we're trying to do.

14           THE COURT: Or as I say, my concern is any  
15 testimony that would suggest that somehow there was some  
16 kind of connection between the organization and them. I  
17 mean, it's --

18           Mr. Hartman?

19           MR. HARTMAN: Your Honor, I would respond with  
20 the following -- and frankly, if this issue is going to be  
21 reconsidered, we'd like to rebrief it, but I -- what's  
22 important about these websites and these things is not what  
23 they actually are, but it's what the defendants thought  
24 they were, that's what was on the tape. The government has  
25 already gotten that into evidence.

1           Second, if it's important how you get there and  
2           how you get from turning your computer on to getting to a  
3           website, that's -- that is material for a forensic computer  
4           examiner to say this is exactly what did happen, not for  
5           Evan Kohlmann to say this is normally how it happens.

6           THE COURT:   Well, okay.

7           MR. HARTMAN:   You know, I understand IAI was  
8           explained, and I understand where they're going, but  
9           they've got that evidence on Yahoo group.

10          THE COURT:   But there may be -- it's like other  
11          terms, I think that it's appropriate to -- it's exactly --  
12          it's appropriate to have A, to have evidence of, ha,  
13          that -- what that stands for, what that acronym stands for.

14          MR. HARTMAN:   Even if the defendants -- I mean,  
15          even if there's no evidence that the defendants knew what  
16          that stood for?   I mean, then why is it --

17          THE COURT:   Well, I think that -- that that can  
18          be told to the jury that's what that is, that's all it is.  
19          And it doesn't -- whether the defendants knew or not, at  
20          some point, I think -- I think that example is  
21          permissible --

22          MR. HARTMAN:   And --

23          THE COURT:   -- right now, and we will reexamine  
24          this probably pretty soon.

25          MR. HARTMAN:   I understand.   I also have -- I

1 mean, we also would like to revisit the issues of -- the  
2 issues that didn't get decided because Your Honor's  
3 decision was basically about relevance. But we have the  
4 issues about Kohlmann and his qualifications and the lies  
5 that he told on the stand. I worry immensely about his  
6 testimony because of the way he testified because he --

7 THE COURT: I understand. I will make very  
8 clear -- and I trust the government to make very clear  
9 there would be, to the extent possible, a pretty clear road  
10 map about the subjects and the mode of questioning and kind  
11 of response that I expect. And I might even either suggest  
12 or direct that it basically be a series of leading  
13 questions.

14 Candidly, I am persuaded that, at least in terms  
15 of the areas that I'm talking about and thinking about,  
16 he's qualified, okay. And you may be right about the  
17 computer forensic expert.

18 MR. HERDMAN: Your Honor, if I may address that  
19 briefly. There are limits to what computer forensics is  
20 able to do, and it has to actually be in the computer.

21 THE COURT: I think all we're doing now is  
22 projecting the fact that we've got to revisit some of these  
23 issues in response to government's request.

24 MR. SOFER: That's all we're trying to do is  
25 focus on the actual facts of the case.

1           THE COURT: I understand that's fair, I really  
2 do. And I think that it is appropriate for the jury to  
3 understand what these -- what one acquires by going to  
4 these locations and what was acquired here at various  
5 locations, and how one gets there. Okay?

6           Now, whether that's a computer forensic expert or  
7 it's Mr. Kohlmann or both, remains to be seen, but I'm  
8 trying to signal to all of you I think, just as with the --  
9 the -- the glossary of various people and things, I think  
10 the jury needs to know this stuff; otherwise, it's just  
11 floating out there, and I do think that it's pertinent.

12           There's a difference between going to CNN and  
13 getting something and going to Al Jazeera and getting  
14 something and going to -- and signing up for the Ekhlaas or  
15 whatever is -- whatever the e-mail service is.

16           MR. SOFER: And that's --

17           THE COURT: And that has probative weight, and  
18 I'm trying to see to it that the probative weight is not  
19 outweighed by a whole lot of stuff about, you know, how and  
20 where and by whom this stuff was produced and who -- you  
21 know, who -- okay?

22           MR. HARTMAN: I understand what The Court's  
23 saying, and we are still waiting for the government's  
24 response on the stipulation issue, too, so a lot of this  
25 might be able to be taken care of.



1           THE COURT: What I would suggest is maybe at some  
2 point, maybe over the weekend, talk with each other and  
3 suggest a time either next week or perhaps in Mr. Griffin's  
4 testimony, I assume that the bulk of these terms and  
5 websites we will have heard that once we're done with  
6 Mr. Griffin.

7           MR. SOFER: Absolutely, Judge.

8           THE COURT: And so it may be even toward the end  
9 of next week is when we ought to sit down, find a time, and  
10 take whatever time it needs outside the presence of the  
11 jury and after he's been --

12           MR. HARTMAN: There's one other thing I need to  
13 bring to The Court's attention, just given the fact that  
14 this ruling may be reconsidered on this, and that may bring  
15 up some evidentiary issues for the defense that The Court  
16 has already ruled on, and I don't -- we may want revisited,  
17 and I don't, frankly, want The Court to get upset if we ask  
18 for a reconsideration of certain things.

19           THE COURT: No.

20           MR. HARTMAN: Okay.

21           THE COURT: I mean, I only get upset when it's a  
22 habitual practice when I'm asked to revisit something  
23 solely on the basis of what I've already considered.

24           MR. HARTMAN: Okay.

25           THE COURT: As events unfold, sure, that's

1 exactly what Mr. Sofer's doing, and he's still standing  
2 upright with his head, hands, arms, and two legs on. I  
3 haven't exercised my usual reaction to, quote,  
4 reconsideration and don't worry about it. I just get upset  
5 when someone says, Judge, we know why you decided that, why  
6 did you decide it that way, and why didn't you decide it  
7 the other way. I don't like that. Okay?

8 Let's try to get back together in 15, 20 minutes  
9 or so. And if you guys want to get a sandwich and bring it  
10 in here, that's fine. This is not a mandatory class, okay.  
11 I'm doing this for myself, and I'm just saying any counsel  
12 who wants to get instructed on this stuff is welcome to sit  
13 in. If nobody wants to, that's fine.

14 (A brief recess was taken for lunch.)

15 (Government counsel and judge only in  
16 chambers for sealed conference.)

17 THE COURT: Mr. Griffin, I assume you understand  
18 you remain under oath.

19 And Mr. Sofer, you may continue.

20 MR. SOFER: I was --

21 THE COURT: Let the record show we started two  
22 minutes of the latter time of starting that I had  
23 indicated; getting a little better.

24 Go ahead.

25

1 BY MR. SOFER:

2 Q. Mr. Griffin, when we broke for lunch I think we  
3 were still discussing February 25th, 2005, and there's one  
4 more very short clip that we're going to play from that,  
5 and that's 5-A. Let's wait for a second.

6 (Audio playing.)

7 Q. Okay. Now, I want to direct your attention next  
8 to March 8th, 2005, a little less than two weeks later.  
9 Did there come a time when you spoke to Marwan El-Hindi on  
10 that day?

11 A. Yes.

12 MR. SOFER: And if we could play Exhibit Number  
13 4-84, 1D12, clip 1A.

14 (Audio playing.)

15 BY MR. SOFER:

16 Q. Mr. Griffin, did you know Marwan El-Hindi's  
17 cellular telephone number back in March of '05?

18 A. Yes.

19 Q. And can you tell us what it was?

20 A. (419)215-6109.

21 (Audio playing.)

22 Q. Had you told Marwan El-Hindi that you were going  
23 somewhere during this period of time?

24 A. Yes, to -- one of the things to visit my daughter  
25 out West.

1 Q. And any idea -- he asked was she supplying over  
2 Iraq?

3 A. Because she's in the Air Force.

4 MR. SOFER: Okay. Continue.

5 (Audio playing.)

6 BY MR. SOFER:

7 Q. Did there come a time, Mr. Griffin, on the next  
8 day, March 9th, 2005 when you spoke as to Mohammed Amawi?

9 A. Yes.

10 MR. SOFER: And if we can play this is Exhibit  
11 Number 4-34 from 1D30, Exhibit -- I'm sorry, clip 1A.

12 (Audio playing.)

13 BY MR. SOFER:

14 Q. Did that conversation on March 9th continue?

15 A. Yes.

16 MR. SOFER: If you'll play 2A, please.

17 MR. BOSS: Could we take just a moment, please.

18 Is this the same transcript, Mr. Sofer?

19 MR. SOFER: Yes. Okay. So we're going to replay  
20 clip 2, I believe.

21 (Audio playing.)

22 BY MR. SOFER:

23 Q. Okay. Now, I'd asked you a long time ago when  
24 you first testified about whether there were occasions when  
25 you neglected to turn off the device?

1 A. Yes.

2 Q. Do you know whether this is one of them? And do  
3 you know why it was statements that you did not turn off  
4 the device?

5 A. I believe either equipment malfunction or  
6 operator error.

7 Q. Okay. And operator --

8 THE COURT: Operator error equals you forgot?

9 THE WITNESS: Yes, could be, Your Honor.

10 BY MR. SOFER:

11 Q. You were the operator, right?

12 A. Yes.

13 Q. Okay.

14 MR. SOFER: Let's continue with this clip.

15 (Audio playing.)

16 THE COURT: Can you pause that for a moment,  
17 please?

18 I believe that these statements, when he refers  
19 to statements by others, are not offered for the truth of  
20 the matter asserted.

21 MR. SOFER: No, Judge.

22 THE COURT: Ladies and gentlemen, during this  
23 segment when Mr. Griffin relates a statement that somebody  
24 else may have said to him, Mr. Amawi or anybody, no matter  
25 who it was, that is evidence only that Mr. Griffin made

1 that statement to Agent Radcliff. It's not evidence about  
2 the truth of whatever was said by the other person. In  
3 other words, it's offered to show that, quote, I believe,  
4 for example, as if a report was made, but not that what the  
5 report says is true or not. So for limited purposes, just  
6 so Mr. Griffin made these statements to the agent.

7 You may continue.

8 BY MR. SOFER:

9 Q. And we talked about this before, Mr. Griffin, you  
10 related information to the FBI by sometimes speaking to  
11 them on the phone?

12 A. Yes.

13 Q. And what was -- what were other ways that --  
14 another way that you relayed the information of what had  
15 happened?

16 A. By face-to-face.

17 Q. Okay. Were there times when you also returned  
18 the recording equipment to them?

19 A. Yes.

20 Q. What would your primary mechanism of informing  
21 about your activities and the activities of others have  
22 been during this time?

23 A. The recording devices.

24 MR. SOFER: Continue.

25 (Audio playing.)

1 BY MR. SOFER:

2 Q. Are you able to tell where you are during this  
3 period of time?

4 A. In my vehicle.

5 MR. SOFER: Continue.

6 (Audio playing.)

7 THE COURT: If you can stop there for a second.

8 For example, Mr. Griffin is telling Agent  
9 Radcliff that Mr. Amawi is going to call this individual  
10 and set up a meeting. That's not proof that Mr. Amawi was  
11 going to call or set up a meeting. It's simply agent -- or  
12 excuse me, Mr. Griffin telling the agent that, making that  
13 statement to the agent.

14 Go ahead.

15 BY MR. SOFER:

16 Q. And again, would this be -- I hate to use this  
17 word, but a fairly typical interaction over the telephone  
18 with one or more of the agents in the FBI?

19 A. Yes.

20 MR. SOFER: Please continue.

21 (Audio playing.)

22 BY MR. SOFER:

23 Q. Again, can you tell the members of the jury who  
24 Ashraf is?

25 A. The owner or manager of AZ Travel.

1 Q. What are you basically explaining here when you  
2 stopped when Ashraf came?

3 A. Basically talking about what we were doing and  
4 things that were in the last clip.

5 Q. I don't understand. When you said here we really  
6 didn't talk too much about it because I heard Ashraf come  
7 in the back. What did you mean by that?

8 A. Just things we were discussing prior, either to  
9 the training or videos.

10 Q. With who?

11 A. With Mohammed Amawi.

12 (Audio playing.)

13 Q. Is this the part of the brief where you describe  
14 the part of the conversation we have just heard before  
15 this?

16 A. Yes.

17 Q. And again, this was your best recollection of  
18 the -- your best recollection of the time of what had  
19 transpired?

20 A. Yes, just kind of regurgitating everything that  
21 had happened.

22 Q. Okay.

23 MR. SOFER: Let's continue.

24 (Audio playing.)

25 BY MR. SOFER:



1 Q. And again, did you meet with Agent Radcliff  
2 sometime the next morning or in the next day or so?

3 A. Yes.

4 Q. And did you give him the recordings, both of the  
5 ones that we've just listened to?

6 A. Yes.

7 Q. Did you know you had recorded yourself at that  
8 juncture?

9 A. I did not.

10 Q. And you turned over the recording of the  
11 interaction you've had with Mohammed Amawi at that time as  
12 well, correct?

13 A. Yes.

14 Q. Did there come a time on March 14th when you met  
15 with Mohammed Amawi again?

16 A. Yes.

17 MR. SOFER: And if we could, please --

18 THE COURT: And excuse me, what was the day on  
19 which you met with Agent Radcliff? I got a little  
20 confused.

21 MR. SOFER: Do you know?

22 THE COURT: Or you can just say --

23 BY MR. SOFER:

24 Q. In the conversation, do you know what day you  
25 actually turned over the recording device back to Agent

1 Radcliff?

2 A. What was the date actually the recording was made  
3 on?

4 Q. Well, I directed your attention to March 9th of  
5 '05, I believe.

6 THE COURT: So it would have been March 10th.

7 BY MR. SOFER:

8 Q. Do you have an independent recollection of  
9 turning it over the very next day or was that just your  
10 general practice?

11 A. If Bill Radcliff told me to be there the next  
12 morning, I'm there.

13 Q. Very well. Okay. Now, again, I want to direct  
14 your attention to March 14th of 2005.

15 MR. SOFER: And this is 1D32, Exhibit 4-35, and  
16 it's clip 1A, please.

17 (Audio playing.)

18 MR. SOFER: Just a second.

19 (Audio playing.)

20 BY MR. SOFER:

21 Q. Were you able to tell where you are during the  
22 course of this conversation on the 14th of March?

23 A. I believe AZ Travel.

24 Q. What leads you to believe that, by the way?

25 A. Because of the background noise.

1 MR. SOFER: Continue.

2 (Audio playing.)

3 BY MR. SOFER:

4 Q. Do you know what he's referring to here?

5 A. The bomb vest video.

6 (Audio playing.)

7 Q. By the time, had you had discussions with Agent  
8 Radcliff and other people in the FBI about what you could  
9 and you could not train these defendants to do?

10 A. Yes.

11 Q. And had they given you any input on building  
12 actual explosives?

13 A. Yes.

14 Q. What did they tell you?

15 MR. HARTMAN: Objection.

16 THE COURT: Again, this is solely proof of what  
17 was said to him, not that that actually is true. In other  
18 words, I gather we're about to hear some instruction, but  
19 it's not proof that that, in fact, was what the agent  
20 wanted him to do or reflected in FBI policy or whatever.  
21 It's simply something said to him.

22 MR. SOFER: Just to explain his --

23 THE COURT: I understand.

24 BY MR. SOFER:

25 Q. Again, had the FBI given you some input about

1 actually teaching these defendants how to build an actual  
2 explosive device?

3 A. They said do not.

4 MR. SOFER: Let's continue.

5 (Audio playing.)

6 BY MR. SOFER:

7 Q. Okay. Mr. Griffin, did the conversation with  
8 Mohammed Amawi continue on that day?

9 A. Yes, it did.

10 MR. SOFER: We'll play 2A.

11 MR. HARTMAN: 2A?

12 MR. SOFER: 2A.

13 (Audio playing.)

14 BY MR. SOFER:

15 Q. Okay. And did this conversation continue?

16 A. Yes.

17 MR. SOFER: Let's play 3-A, please.

18 (Audio playing.)

19 BY MR. SOFER:

20 Q. Okay. Mr. Griffin, I want to direct your  
21 attention to six days later on March 20th, 2005. Did you  
22 have an opportunity on that day to meet with Marwan  
23 El-Hindi?

24 A. Yes.

25 Q. And -- strike that.

1 Well, did you have an opportunity to communicate  
2 with Marwan El-Hindi?

3 A. Yes.

4 Q. And did you record that communication in some  
5 way?

6 A. I believe I did.

7 MR. SOFER: We're going to play now Exhibit 4-79  
8 of 1D13, and it's clip 1A.

9 BY MR. SOFER:

10 Q. Let me just ask you, before we start playing  
11 it -- I asked you this at the beginning, we're not playing  
12 all of your interactions with all of these defendants,  
13 correct?

14 A. No.

15 Q. And even on the days when you did interact with  
16 them, we're not playing an hour or two-hour long meeting  
17 with them, sometimes we're taking smaller percentages?

18 A. Correct.

19 Q. And in your conversations with them, did you have  
20 both conversations about the kinds of things we've talked  
21 about here and other matters as well?

22 A. Yes, both.

23 (Audio playing.)

24 Q. Did you forget some of his cell phone number that  
25 day?

1 A. I believe I did.

2 MR. HARTMAN: We'll stipulate to that Mr. Sofer,  
3 I mean --

4 MR. SOFER: Okay. Let's continue.

5 (Audio playing.)

6 BY MR. SOFER:

7 Q. I had asked you incorrectly, did you meet with  
8 him. Are you able to tell from this that you did not meet  
9 with him?

10 A. It looks like a phone call.

11 MR. SOFER: Okay. Let's continue.

12 (Audio playing.)

13 BY MR. SOFER:

14 Q. What did you understand 1.2 to --

15 MR. HARTMAN: Objection.

16 THE COURT: Sustained.

17 Jury to disregard the question.

18 (Audio playing.)

19 BY MR. SOFER:

20 Q. Again, I asked you, do you know what Marwan  
21 El-Hindi is referring to here?

22 A. One of two things.

23 Q. Okay. Will you tell the members of the jury what  
24 that is?

25 A. Either the grants or the making of money with the

1 EMSS program.

2 Q. And just basically can you give us an idea, if  
3 you know, what this EMSS program is?

4 A. I believe it stand for European Medical Services  
5 and something. It was basically just to send people over  
6 to Europe to become doctors, and they would get money for  
7 that, for recruiting them.

8 Q. Okay. And did you know whether Marwan El-Hindi  
9 was engaged in that?

10 A. In some fashion, yes.

11 Q. Do you know who he was engaged with in that?

12 A. I believe with his brother.

13 Q. And do you know his brother's name?

14 A. Yoseff.

15 MR. SOFER: Let's continue.

16 (Audio playing.)

17 BY MR. SOFER:

18 Q. Okay. And I now want to direct your attention to  
19 March 31st, 2005, about 11 days later. Did there come a  
20 time on March 31st when you met with Marwan El-Hindi and  
21 Mohammed Amawi?

22 A. Yes.

23 MR. SOFER: And we're going to play Exhibit 4-36.  
24 It's from 1D41, and it's clip 1A that we're going to begin  
25 with.

1 (Audio playing.)

2 BY MR. SOFER:

3 Q. And basically, can you tell the jury what was  
4 happening there?

5 A. The forming of the structure of the  
6 organization -- of the non-profit organization. He was  
7 explaining to me what it needed and what its members,  
8 people would do.

9 Q. Okay. Of the --

10 MR. SOFER: And let's play clip 2A, please.

11 BY MR. SOFER:

12 Q. I'm sorry, did the conversation continue?

13 A. Yes, it did.

14 (Audio playing.)

15 Q. Tell the members of the jury what brothers in  
16 Chicago you're talking about there.

17 A. The brothers that we dealt with, the candy thing  
18 that I mentioned earlier tried to be a mediator in the  
19 whole situation.

20 Q. When was that business transaction approximately  
21 with these other people in Chicago?

22 A. I believe in -- between 2002 and 2004.

23 MR. SOFER: Okay. Let's continue.

24 (Audio playing.)

25 BY MR. SOFER:



1 Q. At that point, are you going through something?

2 A. Yes, he had produced papers with the grants on  
3 it, and I was going through them, reading.

4 Q. By the way, do you know who the -- what entity is  
5 paying this money out where the grants come from?

6 A. I believe the government.

7 Q. Okay. Okay. And did the conversation continue?

8 A. Yes, it did.

9 MR. SOFER: Let's play 3-A.

10 (Audio playing.)

11 BY MR. SOFER:

12 Q. Mr. Griffin, I want to show you what's been  
13 marked Government's Exhibit 80A through 80Q. Make that 80A  
14 through 80P -- I apologize. And ask you if you recognize  
15 it?

16 THE COURT: T as in Tom?

17 MR. SOFER: P as in Peter.

18 BY MR. SOFER:

19 Q. Do you recognize these?

20 A. Yes.

21 Q. And what do you recognize these to be, that is  
22 80A through 80P?

23 A. I believe the grants that we were discussing in  
24 the last clip.

25 Q. Okay. And is there a particular grant there that

1 you recall discussing with Marwan El-Hindi?

2 A. Yes, the Middle Eastern Partnership Initiative.

3 Q. Just one question or one moment.

4 MR. SOFER: Just one moment, Judge.

5 THE COURT: No problem.

6 MR. SOFER: We can actually put them -- while  
7 we're doing this, put them up on the screen. If we can put  
8 up 80A through 80P and we can go through them relatively  
9 quickly. Although, I'd like you to give a couple seconds  
10 for you and the jurors to at least look at them, if that's  
11 acceptable to Your Honor.

12 THE COURT: Yes.

13 BY MR. SOFER:

14 Q. Can you circle on 80A where you notice this  
15 Middle East Peace Initiative or peace process?

16 Hold on.

17 MR. SOFER: If it's acceptable to counsel and The  
18 Court, do you mind if I circle --

19 MR. HARTMAN: I don't care. That's fine.

20 BY MR. SOFER:

21 Q. Is it on this first one?

22 A. Yeah.

23 Q. Do you want to come down here and do it?

24 We'll try to do it some other time. Let's keep  
25 rolling through here. Okay. Just moving through them.

1           Are these from different federal government  
2 agencies, if you know?

3           A.           I do not know.

4           Q.           While we're going through these, Mr. Griffin, did  
5 Marwan El-Hindi give you these documents at some juncture?

6           A.           Yes, he did.

7           Q.           There's my employer up there. Do you see at the  
8 top when we make this one bigger?

9                       MR. SOFER: Let's continue.

10          BY MR. SOFER:

11          Q.           What did you do after receiving these documents  
12 with them?

13          A.           I gave them to the FBI.

14          Q.           And again, if you recall, do you know which agent  
15 you gave them to?

16          A.           Either Bill Radcliff or Shannon Coats.

17          Q.           Did the conversation on the 31st of March  
18 continue?

19          A.           Yes, it did.

20                       MR. SOFER: And if we could play again Exhibit  
21 4-36. This is clip 4A.

22                               (Audio playing.)

23          BY MR. SOFER:

24          Q.           Did the conversation on March 31st continue?

25          A.           Yes, it did.

1 MR. SOFER: Let's play clip 5A, please.

2 (Audio playing.)

3 BY MR. SOFER:

4 Q. On this day on the 31st, where were these --  
5 where were -- the first four clips that we listened to,  
6 where did they take place?

7 A. At the home or apartment of Marwan El-Hindi.

8 Q. And where was that?

9 A. On Mayo Street.

10 Q. Did there come a time when you left there?

11 A. Yes.

12 Q. Do you remember where you went?

13 A. Either AZ Travel or the home of Mohammed Amawi.

14 Q. Okay. And let's play a little longer and we'll  
15 see if you can recognize where you are.

16 (Audio playing.)

17 MR. SOFER: We have a battery pit stop.

18 THE COURT: About how much longer?

19 MR. SOFER: They're short clips, but I'm told  
20 four to five minutes.

21 THE COURT: After this and then we'll take a  
22 break.

23 MR. SOFER: You back in business?

24 JUROR: Yes, sir.

25 BY MR. SOFER:

1 Q. I'd asked you previously about discs that  
2 Mohammed Amawi had given to you and asked for them back.  
3 Is this one is of those occasions?

4 A. Yes.

5 Q. I think you testified about a disc that had a  
6 star on it. Do you know if that's what he's referring to  
7 here?

8 A. I believe so.

9 MR. SOFER: Let's continue.

10 (Audio playing.)

11 BY MR. SOFER:

12 Q. Now, do you recognize where you were after  
13 listening further to that clip?

14 A. Yes.

15 Q. And can you tell the jury where you are and why  
16 it is you recognize it?

17 A. AZ Travel because of the vehicular car traffic.

18 MR. SOFER: Okay. Continue.

19 (Audio playing.)

20 MR. BOSS: Is this a new clip now?

21 MR. SOFER: I apologize, Judge, we should have  
22 said that this is clip 6A.

23 MR. HARTMAN: You want to go ahead and start from  
24 the beginning then.

25 MR. SOFER: Yeah.

1 (Audio playing.)

2 BY MR. SOFER:

3 Q. Okay. And did the conversation continue?

4 A. Yes, it did.

5 MR. SOFER: And let's play 7A.

6 (Audio playing.)

7 BY MR. SOFER:

8 Q. Okay. And finally, did the conversation continue  
9 further?

10 A. Yes, it did.

11 MR. SOFER: And let's play 8A.

12 (Audio playing.)

13 BY MR. SOFER:

14 Q. And again who was the Zubair and Khaleel that  
15 Marwan was referring to, if you know?

16 A. I believe Zubair and Khaleel Ahmed.

17 MR. SOFER: Your Honor, the government offers --  
18 if I have not already -- 80A through 80P into evidence?

19 THE COURT: Okay. Will be admitted.

20 MR. SOFER: And now would be an opportune time.

21 THE COURT: We'll resume at 3:00. Thank you.

22 (A brief recess was taken.)

23 THE COURT: Okay. You may be seated, and we're  
24 back to work.

25 Okay. Mr. Griffin, you remain under oath.

1 Mr. Sofer, you may continue.

2 MR. SOFER: Thank you, Judge.

3 BY MR. SOFER:

4 Q. We left off before the break, I believe, at  
5 March 31st, 2005. And I wanted to ask you -- direct your  
6 attention first to April 4th of 2005 about 4 days later.

7 Did you have occasion to drive somewhere with Marwan  
8 El-Hindi?

9 A. Yes, up to Michigan.

10 Q. And what was --

11 MR. HARTMAN: That mic's not on.

12 THE COURT: Are the mics on?

13 THE DEPUTY CLERK: Now they are.

14 BY MR. SOFER:

15 Q. Did you have occasion to drive somewhere with  
16 Marwan El-Hindi?

17 A. Yes, up to Michigan.

18 MR. SOFER: Okay. Let's play -- this is Exhibit  
19 4-80, it's 1D14, and it's clip 1A.

20 MR. BOSS: Could we have a date, please?

21 THE COURT: March 31st?

22 MR. SOFER: April 4th, Your Honor.

23 BY MR. SOFER:

24 Q. By the way, the question at this juncture, were  
25 you wearing a device capable of recording video that day?

1 A. Yes.

2 (Audio and video playing.)

3 Q. Who's the individual that's pictured in 1D14  
4 wearing the blue shirt at 03:18 on the court presentation  
5 from the government?

6 A. Jihad Dahabi.

7 Q. And do you know what Jihad Dahabi did, what kind  
8 of business he was engaged in?

9 A. I believe he was a CPA.

10 MR. SOFER: Let's continue.

11 (Audio and video playing.)

12 BY MR. SOFER:

13 Q. Do you know what state that particular clip was  
14 in, state as in Ohio or another state?

15 A. Michigan.

16 MR. SOFER: Let's continue with 2-A, please.

17 (Audio and video playing.)

18 BY MR. SOFER:

19 Q. Okay. Did that conversation continue?

20 A. Yes, it did.

21 MR. SOFER: And let's play clip 3A, please.

22 (Audio and video playing.)

23 BY MR. SOFER:

24 Q. Okay. Did the conversation continue further?

25 A. Yes, it did.



1 MR. SOFER: And can you play 4A, please -- I'm  
2 sorry, 5A.

3 (Audio and video playing.)

4 BY MR. SOFER:

5 Q. Okay. Mr. Griffin, did you and Marwan El-Hindi  
6 get a business card that day from Mr. Dahabi?

7 A. Yes.

8 MR. SOFER: And let's put up Government's Exhibit  
9 Number 8 one for identification, please.

10 BY MR. SOFER:

11 Q. And do you recognize what's depicted in  
12 Government's Exhibit Number 81?

13 A. Yes, I do.

14 Q. What is that?

15 A. It is the business card of Jihad Dahabi.

16 Q. And does it fairly and accurately represent the  
17 way that card looked, approximately, when you saw it, some  
18 time around April 4th, 2005?

19 A. Yes.

20 MR. SOFER: At this time the government offers  
21 Government Exhibit Number 81.

22 MR. HARTMAN: No objection.

23 THE COURT: It will be admitted.

24 BY MR. SOFER:

25 Q. Okay. Mr. Griffin, I want to direct your

1 attention to two days later, April 6th, 2005. Did there  
2 come a time on that day when you met Mohammed Amawi?

3 A. Yes.

4 MR. SOFER: And let's play Exhibit 4-37, 1D42,  
5 and it's clip 1A.

6 BY MR. SOFER:

7 Q. Before we play it, I'm going to ask you a quick  
8 question, Mr. Griffin. Do you know whether or not you had  
9 some contact with Marwan El-Hindi and Mohammed Amawi some  
10 time prior to April 6th, 2005?

11 A. Yes.

12 Q. And during your communication with them, did they  
13 indicate anything about their ability to train on  
14 April 6th?

15 A. Both were unable. Mohammed Amawi, his mother --  
16 I was told his mother was coming in town and for Marwan  
17 El-Hindi, he had a back injury, and his new wife was  
18 expecting.

19 Q. Okay.

20 MR. BOSS: Were these recorded?

21 MR. SOFER: Is he asking me or is he asking the  
22 witness?

23 THE COURT: I think he's asking you. Do you know  
24 whether these were recorded?

25 MR. SOFER: I don't as we sit here, Your Honor.

1 I think maybe one of them was recorded.

2 MR. BOSS: Thank you.

3 MR. SOFER: Let's play 1A again, Exhibit 1-47,  
4 1D42.

5 (Audio playing.)

6 BY MR. SOFER:

7 Q. Do you recognize from the sounds where this took  
8 place?

9 A. AZ Travel.

10 (Audio playing.)

11 Q. Okay. Did the conversation on the 6th continue?

12 A. Yes, it did.

13 MR. SOFER: And if we can play clip 4A, please.

14 (Audio playing.)

15 BY MR. SOFER:

16 Q. Okay. Now, after this conversation with Mohammed  
17 Amawi, did you inform the FBI about this chemical?

18 A. Yes, I did.

19 Q. And I want to direct your attention to the  
20 following day, April 7th, 2005. Did there come a time when  
21 you met with Mohammed Amawi again, the next day, that day,  
22 April 7th?

23 A. Yes.

24 Q. Do you know where that was?

25 A. AZ Travel.

1 MR. SOFER: We're going to play Exhibit 4-38.

2 And it's 1D43, and clip 1A, please.

3 (Audio playing.)

4 BY MR. SOFER:

5 Q. Did you later learn what chemical Mohammed Amawi  
6 was referring to?

7 A. Yes.

8 Q. What was it?

9 MR. SIEVE: Objection, Your Honor.

10 THE COURT: Foundation in terms of sounds like  
11 it's going to be hearsay to me, but -- unless he knows of  
12 his own knowledge.

13 BY MR. SOFER:

14 Q. Did you?

15 A. Yes, I do, Your Honor.

16 Q. Do you have --

17 THE COURT: Lay some foundation.

18 BY MR. SOFER:

19 Q. Were you able to do some research to determine  
20 what this chemical was?

21 A. Yes.

22 Q. Did it -- did it later become clear what that  
23 chemical was called?

24 A. Yes.

25 Q. What was the chemical called?

1 MR. SIEVE: Objection.

2 THE COURT: Why don't you ask him about his prior  
3 experience.

4 MR. SOFER: We can keep going, Judge.

5 Let's back it up a little tiny bit. It's going  
6 to be explained in a moment any way.

7 THE COURT: No problem.

8 (Audio playing.)

9 BY MR. SOFER:

10 Q. Okay. Did Mohammed Amawi give something to you  
11 on April 7th, 2005?

12 A. Yes.

13 Q. What did he give you?

14 A. A Krispy Kreme napkin.

15 Q. And other than whatever debris was left on the  
16 Krispy Kreme napkin, was there something else of importance  
17 on it?

18 A. Yes, the name of the chemical.

19 Q. Let me show you what's been marked Government  
20 Exhibit Number 82.

21 MR. SOFER: You guys have this in your books.

22 BY MR. SOFER:

23 Q. I want to show you what's been marked government  
24 Exhibit Number 82. Do you recognize that?

25 A. Yes, I do.

1 Q. And what do you recognize it to be?

2 A. A Krispy Kreme napkin.

3 MR. SOFER: Will you put it up there?

4 BY MR. SOFER:

5 Q. Does that Krispy Kreme napkin have some writing  
6 on it?

7 A. Yes, it does.

8 Q. Do you know who wrote on that napkin?

9 A. Mohammed Amawi.

10 Q. And can you it tell us what's written on that  
11 napkin?

12 A. What's in the viewer?

13 Q. Well, you can look at either one. What's on the  
14 napkin, what's on the viewer?

15 A. It says Astrolite.

16 MR. SIEVE: Objection, Your Honor. Speaks for  
17 itself.

18 THE COURT: If he can read the writing, he can  
19 read the writing, either -- looks like both English and  
20 Arabic.

21 MR. SOFER: That's what I was going to get to,  
22 Judge.

23 BY MR. SOFER:

24 Q. Something that you can read?

25 A. Yes.

1 Q. And what is that?

2 A. Astrolite.

3 THE COURT: I couldn't hear you.

4 THE WITNESS: Astrolite.

5 BY MR. SOFER:

6 Q. Okay. And below that, do you see something in  
7 another language?

8 A. Yes.

9 Q. Do you know what language that is?

10 A. I believe Arabic.

11 MR. SOFER: At this time the government offers --

12 BY MR. SOFER:

13 Q. Is this the napkin that was given to you on  
14 April 7th, 2005 at AZ Travel by Mohammed Amawi?

15 A. Yes, it is.

16 MR. SOFER: At this time the government offers 82  
17 into evidence. Is it admitted, Your Honor?

18 THE COURT: I'm sorry?

19 MR. SOFER: With Your Honor's permission, I'd  
20 like to publish this to the jury.

21 THE COURT: You may.

22 BY MR. SOFER:

23 Q. While that's happening, Mr. Griffin, did you  
24 inform the FBI about this chemical?

25 A. Yes, I did.

1 Q. Did you inform the FBI about this napkin?

2 A. Yes, I did.

3 Q. Did you give this napkin to the FBI?

4 A. Yes, I did.

5 Q. Do you recall who you gave it to?

6 A. Either Bill Radcliff or Shannon Coats.

7 Q. While we're passing that around, did there come a  
8 time two days later when you had a conversation with  
9 Mohammed Amawi?

10 A. Yes.

11 Q. Can you tell us basically and in substance what  
12 that conversation was?

13 A. It was about the chemical compound.

14 Q. Okay. Did Mohammed Amawi refer to it by the name  
15 on the napkin?

16 A. No, he did not.

17 Q. Can you tell the members of the jury how he  
18 referred to that chemical?

19 A. He used the code word "pillows."

20 Q. And how were you able to gather that he was using  
21 a code word?

22 A. From our prior conversations.

23 Q. And one of the conversations before, Mohammed  
24 Amawi talked about French and was that a code word as well?

25 A. Yes.



1 Q. Do you know what he was referring to there?

2 A. Jihad training.

3 MR. SOFER: As soon as that makes its way around.

4 We're going next to 4-39, 1D45, segment 1A.

5 BY MR. SOFER:

6 Q. And after you informed the FBI about this  
7 chemical, did you have conversations with the FBI about how  
8 you were to respond to this?

9 A. Yes.

10 Q. And again, basically, can you give us an idea of  
11 what it is that the FBI asked you to do?

12 A. What state -- what physical state would he need  
13 the compound in, who --

14 THE COURT: I'm sorry, I'm having a little  
15 trouble hearing you, maybe.

16 THE WITNESS: I'm sorry, Your Honor.

17 THE COURT: Maybe a little too close to the  
18 microphone.

19 MR. SOFER: Try to speak up so we can hear you.

20 THE WITNESS: The physical state of what the  
21 compound was, being either be solid or liquid.

22 BY MR. SOFER:

23 Q. Who asked you, not specifically, but what do you  
24 mean, the physical state?

25 A. The -- whether it be liquid or solid.

1 Q. Okay. Anything else the FBI asked you to find  
2 out?

3 A. Who was requesting that and where.

4 Q. And did they ask you anything about your contacts  
5 in Syria?

6 A. They asked me about my contacts overseas, yes.

7 Q. Had Mohammed Amawi asked you about your contacts  
8 in Syria on the cut -- on the conversation we just heard,  
9 or in the Middle East?

10 A. Yes.

11 Q. And did you come up with an idea along with the  
12 FBI about a contact in the Middle East?

13 A. Yes.

14 Q. Do you recall what name you were going to use for  
15 that contact?

16 A. Mohammed Salah.

17 MR. SOFER: I think before we continue, we had  
18 one more clip from 43, 4-38?

19 THE COURT: Let me just say, how is that spelled,  
20 the last name, S-A-L-L-A-H or --

21 THE WITNESS: One L, Your Honor.

22 THE COURT: S-A-L-A-H?

23 THE WITNESS: Yes.

24 THE COURT: And was that, to your knowledge a  
25 person?

1 THE WITNESS: Yes, it was.

2 MR. BOSS: Judge, could I ask for a  
3 clarification? The witness was asked whether they asked  
4 him for contacts in Syria, was that referring to the FBI or  
5 was that referring to Mr. Amawi, or who was that referring  
6 to?

7 BY MR. SOFER:

8 Q. I think I asked both, but did you discuss being  
9 able to respond to Mohammed Amawi about your contacts in  
10 the Middle East?

11 A. Yes.

12 Q. And had Mohammed Amawi asked you about what  
13 contacts in the Middle East you might have who could get or  
14 deliver this chemical compound to?

15 A. Yes.

16 Q. The person he was talking to?

17 A. Yes.

18 MR. SOFER: Is that clarified, Counsel?

19 MR. BOSS: Thank you very much.

20 BY MR. SOFER:

21 Q. And again, I think I went ahead a little bit.  
22 Let me go back to April 7th, the day that you received the  
23 napkin.

24 MR. SOFER: Let's play 3A from that conversation.

25 (Audio playing.)

1 BY MR. SOFER:

2 Q. What's Mohammed Amawi trying to do here, if you  
3 know?

4 A. Google the actual name, look it up on the  
5 computer.

6 Q. Okay. What is it you were taking so Mohammed  
7 Amawi wouldn't have it around?

8 A. The Krispy Kreme napkin.

9 MR. SOFER: Continue.

10 (Audio playing.)

11 BY MR. SOFER:

12 Q. Okay. And again, two days later, did you have a  
13 conversation that you described before with Mohammed Amawi?

14 A. Yes.

15 Q. And that was when he used the word "pillows" to  
16 describe the chemical?

17 A. Yes.

18 Q. And now I direct your attention to two days after  
19 that, April 11th, 2005. Did there come a time when you,  
20 once again, met with Mohammed Amawi?

21 A. Yes.

22 Q. And by this time had you developed the name of a  
23 contact in the Middle East?

24 A. Yes.

25 MR. SOFER: And if we could play 4-39. It's

1 April 11th, Your Honor, 1D45. And it's clip 1A, please.

2 (Audio playing.)

3 BY MR. SOFER:

4 Q. Okay. Mr. Griffin, did the conversation on  
5 April 11th, 2005 continue?

6 A. Yes, it did.

7 Q. By the way, I don't know if I asked you this or  
8 not, but are you able to tell from the sounds on that  
9 recording where that conversation took place?

10 A. AZ Travel.

11 MR. SOFER: If we can play 2A.

12 (Audio playing.)

13 BY MR. SOFER:

14 Q. Okay. Mr. Griffin, two days later on April 13th  
15 of 2005, did you have occasion to meet with Mohammed Amawi  
16 again?

17 A. Yes.

18 Q. And do you recall where that was?

19 A. I believe at his apartment.

20 Q. Okay. Let's listen to it and see if it  
21 happens --

22 THE COURT: And what date would that be?

23 MR. SOFER: April 13th, 2005, 1D 4669 -- it's  
24 Exhibit 4-40, and clip 1A.

25 BY MR. SOFER:

1 Q. Anything in the noises there help you identify  
2 where you were?

3 A. I was at AZ Travel.

4 Q. Were you mistaken before when you said that?

5 A. I was mistaken.

6 MR. SOFER: Let's continue.

7 (Audio playing.)

8 BY MR. SOFER:

9 Q. Did Mohammed Amawi tell you about the whole  
10 thing?

11 A. I believe so.

12 Q. Did the conversation continue?

13 A. Yes.

14 MR. SOFER: Let's play 2-A. I think --

15 THE COURT: Mr. Griffin, sort of about this  
16 distance and speak up because if you get a little too  
17 close, you get instant feedback.

18 MR. SOFER: Try to lean back and speak up if you  
19 can, please.

20 THE COURT: About right there.

21 MR. SOFER: Let's try 2-A, please.

22 And Judge, this will be the last clip for the  
23 day, I believe.

24 THE COURT: Okay.

25 (Audio playing.)

1 THE COURT: Okay.

2 MR. SOFER: And Your Honor, that would be a good  
3 place for us to stop.

4 THE COURT: Okay. We will adjourn for the  
5 weekend.

6 Ladies and gentlemen, please keep in mind my  
7 constant admonition not to talk about the case and think  
8 about the case. Have a safe trip home, have a pleasant  
9 weekend, and we'll proceed Tuesday morning at 8:30.

10 (Jury leaves the courtroom.)

11 THE COURT: Okay. You can be seated.

12 MR. SOFER: May I excuse Mr. Griffin, if that's  
13 acceptable, Judge.

14 THE COURT: Yes, that's fine. May I suggest that  
15 you folks talk between now and maybe Monday afternoon and  
16 set a time for a phone conference. I'll be over in  
17 Cleveland.

18 MR. SOFER: On Monday, Your Honor?

19 THE COURT: Yes, I've got meetings and so forth  
20 and mid-afternoon.

21 MR. SOFER: Fine, Judge.

22 THE COURT: What all -- what all are they, in  
23 terms of just to give us some general sense?

24 MR. SOFER: I'm sorry, Judge?

25 THE COURT: What all are the issues?

1           MR. SOFER: There's really -- at this juncture,  
2 there's really two issues, one actually we can do right  
3 now. We've still not received notice with respect to the  
4 defense experts, meaning their reports, and we continue to  
5 be concerned about the government's opportunity to  
6 adequately prepare for these witnesses.

7           Second is the stipulations. I think we agreed in  
8 theory on something like third to a half of them, I could  
9 be overstating that. About a third, I'm told. That leaves  
10 2/3 of the terms which the government and counsel, I think,  
11 are all now in agreement with that need to be defined for  
12 this jury and in a position where we've been unable thus  
13 far to come up with acceptable stipulations, that is, the  
14 government proposed stipulations. Counsel has responded  
15 and I'd like an opportunity to have The Court take a look  
16 at what we propose versus what counsel has responded with  
17 because I think it --

18           THE COURT: Can you give those to me now before I  
19 leave?

20           MR. SOFER: Yes.

21           THE COURT: I'll be leaving by 5:00 maybe sooner,  
22 so if you can give copies to me.

23           MR. SOFER: We're willing to talk, too, Judge,  
24 but I think it will give you an idea of what the issue is.

25           MR. HARTMAN: As for the expert reports, Judge,



1 the calendar says our initial expert reports are due  
2 April 15th, and I believe we're all aware of that.

3 MR. SOFER: I believe Your Honor had coaxed or  
4 requested that we try and move that up for the reasons  
5 that --

6 THE COURT: Can you move them up? Are they  
7 available now? Because they're likely to be getting them  
8 before initially anticipated when we set the timetable.

9 MR. BOSS: We're working on it, Judge. Part of  
10 the issue with regard to the computer forensic matters, as  
11 the day goes on we keep e-mailing new requests that will  
12 end up being part of the opinion. That's part of the  
13 problem I have with the computer forensic matter.

14 The other expert that the defense -- that  
15 Mr. El-Hindi is using, we're still trying to finalize the  
16 report. It isn't quite yet in its finished form, but I  
17 think we'll be able to get it to the government this  
18 weekend.

19 MR. SOFER: And I would just say, Your Honor, for  
20 the record that counsel has been in possession of the  
21 government's evidence for two years.

22 MR. HARTMAN: You know what, that's --

23 THE COURT: Time out. Do the best you can, okay.  
24 Move your experts along.

25 The other issues are? Give me the stipulations.

1           MR. HERDMAN: Your Honor, I have two sets, the --  
2 I have got government's proposed list on the first page,  
3 unless you guys have a clean copy of these?

4           THE COURT: Do you have the ones that you're not  
5 agreeing on as to --

6           MR. HERDMAN: Well --

7           THE COURT: Will I be able to tell just --

8           MR. SOFER: Just what happened was defense went  
9 and marked up our list, but they've omitted some of the  
10 suggestions that we've made so I have the defense list  
11 here. And then this also has a couple annotations on it as  
12 well, nothing I believe that Your Honor would be able to  
13 decipher.

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

s:/ Angela D. Nixon

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Angela D. Nixon, RPR

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Date

I N D E X

Testimony of Darren Griffin continued